

To: So, Katherine[so.katherine@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: McGonagle, Kevin
Sent: Fri 3/31/2017 8:49:53 PM
Subject: RE: OPA Clips 3/31/17

Below: The Hill, Reuters, Washington Examiner, Salon, E&E News, CBS News, Business Insider, The Daily Caller, E&E News (2), Politico, Washington Post, Huffington Post (2), E&E News (2), Bloomberg BNA (4), The Hill (2), Forbes, Huffington Post (2), Washington Examiner (3/30), AP (2) (3/30), Politico (2) (3/30), Washington Post (2) (3/30), Breitbart (3/30), Washington Times (3/30)

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The Hill

<http://thehill.com/policy/energy-environment/326778-epa-seeks-to-delay-chemical-safety-rule-for-second-time>

EPA seeks to delay chemical safety rule for second time

By Devin Henry 3/31/17 4:30 PM

The Environmental Protection Agency (EPA) is attempting to delay implementation of a safety rule for chemical plants for the second time this month.

Administrator Scott Pruitt this week signed an order seeking a delay in the safety standards until at least 2019. Earlier this month, he ordered a pause in the implementation of the rule until at least this summer.

The agency said the delay will allow it to review the legality of the rule and also consider objections raised against it by industry groups.

“We want to prevent regulation created for the sake of regulation by the previous administration,” Pruitt said in a statement.

Any new rule “should make chemical facilities safer, without compromising our national security. And, any new ... requirements should be developed in accordance with the explicit mandate granted to EPA by Congress.”

The Obama administration introduced the new rule in December, expanding emergency coordination requirements for chemical manufacturers under the EPA’s Risk Management Plan program for those facilities.

The rule came in part due to a 2013 explosion at a chemical plant in West Texas that killed 15. It would require companies to prepare for potential accidents by better communicating with communities and first responders, and expanding investigative and auditing powers for regulators.

Chemical companies, though, objected to the rule. After Pruitt’s confirmation to be head of the EPA, industry groups wrote him a letter saying the regulation does little to help public safety and instead “raises significant security concerns and compliance issues that will cause irreparable harm to the coalition members.”

Two weeks later, Pruitt paused implementation of the rule until this summer. The EPA announced on Friday that he kicked off a rulemaking process that could delay the regulation for up to two years.

Reuters

<http://www.reuters.com/article/us-usa-epa-pruitt-carbon-idUSKBN1722SU>

EPA scientific integrity office reviewing Pruitt's comments on carbon

By Emily Flitter 3/31/17 3:57 PM

The U.S. Environmental Protection Agency's scientific integrity watchdog is reviewing whether EPA chief Scott Pruitt violated the agency's policies when he said in a television interview he does not believe carbon dioxide is driving global climate change, according to an email seen by Reuters on Friday.

Lawyers for environmental group the Sierra Club had asked the EPA's Office of Inspector General to check whether Pruitt violated policy when he told a CNBC interviewer on March 9, "I would not agree that it's a primary contributor to the global warming that we see."

The EPA Inspector General's office responded to the Sierra Club on Thursday in an email, saying it had referred the matter to the EPA's Scientific Integrity Officer, Francesca Grifo, for review.

"If after the SIO review, she concludes there is some aspect of the letter itself, or her findings or conclusions that she believes are appropriate for further consideration by the OIG, she will so notify the OIG," the email stated.

A spokesman for the EPA did not immediately respond to a request for comment, and efforts to reach Grifo were not immediately successful.

The EPA website says its scientific integrity policy requires EPA officials and staff to ensure the agency's work respects the findings of the broader scientific community.

An overwhelming majority of scientists think that carbon dioxide emissions from the burning of fossil fuels are a major contributor to global climate change, triggering sea level rise, droughts and more frequent violent storms.

The request by Sierra Club ramps up tension between the U.S. environmental movement and the administration of President Donald Trump, who has called global warming a hoax meant to weaken the U.S. economy and has packed his cabinet with people who question the science of climate change.

Grifo is a biologist who was hired by former President Barack Obama's administration. Before she joined the EPA in late 2013, she oversaw scientific integrity at the Union of Concerned Scientists, a non-partisan group advocating stronger environmental protections.

Pruitt, a former attorney general for Oklahoma, sued the EPA more than a dozen times over its regulations as top prosecutor for the oil and gas producing state.

Washington Examiner

<http://www.washingtonexaminer.com/epas-pruitt-faces-probe-that-could-see-him-disbarred/article/2619049>

EPA's Pruitt faces probe that could see him disbarred

By John Siciliano 3/31/17 3:48 PM

The Oklahoma Bar Association is investigating environmentalists' complaints that Environmental Protection Agency Administrator Scott Pruitt used a private email address to conduct official business when he was the state's attorney general.

The Center for Biological Diversity submitted the complaint to the association last week, claiming that Pruitt inaccurately told a Senate panel in Washington that he never used a private email to conduct his duties as attorney general.

The group is part of a coalition of environmental groups that is suing the Trump administration

for approving the Keystone XL pipeline. One other person was named on the complaint, University of Oklahoma law professor Kristen Van de Biezenbos.

The complaint said the state attorney general office's recent court-ordered disclosure of hundreds of Pruitt's emails and documents showed that he did use his personal email in an official capacity on a number of occasions.

The complaint said Pruitt "misrepresented a material fact" during a Senate confirmation hearing in January, in which he told lawmakers that he did not use a personal account. The group hopes to show that Pruitt violated Oklahoma's rules for professional conduct, which could result in his disbarment.

"In apparent contradiction to Mr. Pruitt's statement, in an e-mail dated August 14, 2013, Ms. Sarah K. Magruder Lyle, vice president, Strategic Initiatives, American Fuel & Petrochemical Manufacturers, communicated with Mr. Pruitt, requesting that he take a particular action in his capacity as Oklahoma attorney general," the complaint stated.

"Another email includes a partially redacted email address for Mr. Pruitt, and shows correspondence from an Oklahoma representative of the American Legislative Exchange Council, or ALEC, regarding a speaking engagement for Mr. Pruitt at an ALEC meeting in his capacity as Oklahoma attorney general."

Pruitt was confirmed last month to head the EPA, but not before Democrats tried to block his nomination at every turn. Democrats complained that Pruitt did not answer their questions adequately, prodding the GOP leadership to delay a confirmation vote until the Oklahoma attorney's general office disclosed Pruitt's emails under an emergency court order.

Senate Majority Leader Mitch McConnell of Kentucky ignored their request.

Salon

<http://www.salon.com/2017/03/31/epa-chief-scott-pruitt-is-under-ethics-investigation-for-lying-to-senate/>

EPA chief Scott Pruitt is under ethics investigation for lying to Senate

By Sofia Tesfaye 3/31/17

Scott Pruitt, President Donald Trump's pick to lead the Environmental Protection Agency, is under investigation for misleading the Senate during his confirmation hearing. The Oklahoma Bar Association is investigating a complaint that Pruitt lied when he swore under oath that he never used personal email to conduct official business while he served as Oklahoma's attorney general.

Pruitt may have violated the Oklahoma Rules of Professional Conduct when he told a U.S. Senate Committee at his confirmation hearings that he only used his official attorney general's email address to conduct official business.

"I use only my official OAG [office of the attorney general] email address and government-issued phone to conduct official business," Pruitt told the Senate Environment and Public Works Committee during his Jan. 18 confirmation hearing. According to emails released in an Open Records Act lawsuit last month, however, Pruitt did use a private email address for official business.

On the eve of his confirmation last month, Pruitt was ordered by an Oklahoma judge to turn over thousands of communications between his office and the fossil fuel industry. Before those records were made public, however, Senate Republicans rushed to narrowly confirm Pruitt to lead the EPA. After his confirmation to lead the EPA, it was revealed that Pruitt's personal email account was used for communication with the American Legislative Exchange Council and the American Fuel & Petrochemical Manufacturers while he served as Oklahoma's attorney general.

"Lo and behold, the documents Scott Pruitt wanted to keep hidden have confirmed our suspicion that he used his personal email address to conduct official state business and that he was not honest with the Senate about this during his confirmation process," Rhode Island Democratic Sen. Sheldon Whitehouse said on the Senate floor after Republicans rushed to confirm Pruitt.

The five Democrats on the Senate Environment and Public Works Committee sent Pruitt a letter after the emails were released last month, asking him to "correct the record" on numerous issues where they said he was misleading. In their letter, the Democrats asked Pruitt to submit a new answer to the question of whether he ever used his personal account for business, and to commit to avoiding personal email use as EPA administrator.

The Oklahoma Bar Association complaint was filed by the Center for Biological Diversity, which works to protect endangered species and an associate professor at the University of Oklahoma College of Law. Professor Kristen van de Biezenbos told The Tulsa World: "as a law professor, I'm invested in the legal profession. I don't want my students to see someone who is a member of the Oklahoma Bar Association violate its ethics rules and no one do anything about it."

Attorney Amy Atwood from the Center for Biological Diversity said in a statement that she was "very pleased" about the investigation. "Lying to Congress is a serious ethical breach, and it doesn't help that Pruitt's use of private emails reflect potential collusion with the very oil and gas industry he's now supposed to be regulating," she said.

Gina Hendryx, general counsel for the Oklahoma Bar Association, told Oklahoma's KOKH that Pruitt has been contacted for a response to the complaint. John Williams, executive director of the Oklahoma Bar Association, told the Tulsa World that the complaint against Pruitt would be treated the same as any other and will remain confidential. Once the investigation is complete, it will be presented to the Professional Responsibility Commission for further action.

E&E News

<http://www.eenews.net/greenwire/2017/03/31/stories/1060052441>

EPA authority could become political bargaining chip

By Hannah Hess 3/31/17

Conservatives who want to bar U.S. EPA from writing any climate regulations got a nod from Administrator Scott Pruitt this week.

Pruitt signaled to his far-right critics in an interview with Breitbart News Network a willingness to revisit the so-called endangerment finding that allows EPA to regulate greenhouse gases under the Clean Air Act.

"I think that if there are petitions for reconsideration for the endangering findings, we'll have to address those at some point," he told the news network, formerly led by President Trump's chief strategist, Steve Bannon. "I don't know if they've actually been filed in that regard, but our objective and our role is to do what the law requires."

One such petition was filed Feb. 17 by the Competitive Enterprise Institute and board members of the Science and Environmental Policy Project, a Virginia-based advocacy organization founded by atmospheric physicist Fred Singer.

Singer was among the first and most prominent scientists to challenge the notion of human-caused global warming. His work has been touted by prominent Republican critics of greenhouse gas regulations, including Sen. Jim Inhofe (R-Okla.).

The 31-page document reflects many of the arguments made by business groups and limited government advocates in the wake of EPA's 2009 finding. It asserts there has been no statistically significant atmospheric warming despite increased atmospheric CO2 levels, changes in global temperatures in recent decades are "far from unusual," and balloon and satellite data demonstrate the atmosphere is "far less sensitive" to CO2 than what has been predicted by climate models.

In 2010, then-Administrator Lisa Jackson rejected 10 petitions filed by the attorneys general of red states, stating that the evidence proving climate change is a problem remains "robust, voluminous and compelling" (Climatewire, July 30, 2010).

As attorney general of Oklahoma, Pruitt joined other states trying to stop the finding through court action, although he did not take a leading role.

Three Supreme Court decisions now have affirmed EPA's authority to regulate greenhouse gases under the Clean Air Act.

Pruitt came under fire in a story published by Breitbart News Network the day before the interview, in which Breitbart accused Pruitt of "failing to drain the swamp at the EPA" (Greenwire, March 28).

Advisers to the Trump administration's EPA transition team, like CEI's Myron Ebell and other long-established climate contrarians, have encouraged grass-roots activism against the 2009 finding that carbon dioxide endangers public health.

Last week, they rallied like-minded parties to contact their members of Congress and press Trump to follow through on campaign trail promises (Greenwire, March 24).

EPA's finding points to scientific evidence about the impacts of climate change on events like heat waves, drought and sea-level rise. Environmentalists have predicted the chances of overturning the finding are "nil," though some Republican lawmakers have shown an appetite for attempting to rewrite the Clean Air Act (E&E News PM, March 10).

CBS News

<http://www.cbsnews.com/news/epa-scott-pruitt-overrides-agency-research-under-obama-pesticide-chlorpyrifos-farmers/>

EPA chief assailed – and applauded – for not banning controversial pesticide

3/31/17 9:44 AM

Scott Pruitt, the head of the Environmental Protection Agency, is facing criticism over his decision not to ban a controversial farm pesticide. It overrides his own agency's research showing the pesticide chlorpyrifos posed a health risk to children and farm workers.

Since 2000, chlorpyrifos has been banned for most household use. But in California's Central Valley, some 90 percent of almond orchards still use the pesticide, as do thousands of farms nationwide, reports CBS News correspondent John Blackstone. Under the Obama administration, the EPA wanted to ban farm use. But the Trump administration has other ideas.

Farmers face an army of small enemies – and many use the pesticide as ammunition.

"It's very important for controlling those small pests that can wreak havoc on the crop," said Michael Kelley, president and CEO of Central California Almond Growers Association.

For half a century, the chemical, also known as Lorsban, has been used on dozens of crops including corn, strawberries and citrus. But the EPA's scientists under the Obama administration

found that the chemical could interfere with children's brain development.

"Reduced IQ, lower working memory scores, increased ADHD, those are the kinds of things. They were small effects but they were definitely meaningful," former EPA assistant administrator James Jones said.

In 2015, the agency proposed banning farmers from using the pesticide. But now the new leadership of the EPA said "reliable data, overwhelming in both quantity and quality, contradicts the reliance" on the earlier studies. The EPA said farmers can continue to use the pesticide while more research is done.

Pruitt issued a statement: "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting health and the environment." Those in agriculture like Kelley agree.

"Did you ever worry about using it?" Blackstone asked.

"No I didn't. It's been around since 1965 and I've found it to be not only very effective but very safe," Kelley said.

But critics say effective substitute pesticides are readily available.

"It would not be that difficult to take this off the plate of parents and it is a bit confounding to me as to why we're not as a government doing that," Jones said.

Dow AgroSciences, which makes the product, applauded the move. It said it remains confident that authorized uses of chlorpyrifos offers "wide margins of protection for human health and safety."

Business Insider

<http://www.businessinsider.com/trumps-epa-letter-ignore-obamas-clean-power-plan-2017-3>

Trump's EPA just told states they can ignore a key Obama-era carbon dioxide regulation

By Rafi Letzter 3/31/17 11:52 AM

Obama's marquee effort to control carbon emissions from US power plants, the Clean Power Plan, is effectively dead, according to EPA chief Scott Pruitt.

The plan sought to cut emissions from power plants in 47 US states to 32% below 2005 levels by 2030. But it was stayed by the Supreme Court in February 2016, pending the results of litigation related to the regulation.

On Tuesday, the Clean Power Plan became the target of an executive order from President Trump that laid the groundwork for it to undergo a complex, time-consuming repeal process.

In a letter that Pruitt sent to governors across the US on March 30, the EPA chief wrote that states have "no obligation to spend resources" on the stayed order — adding, "the days of coercive federalism are over."

In effect, Pruitt is telling the governors that even though it could take years to take the Clean Power Plan off the books (and handle any court challenges during that process), states can treat the plan as though it's already dead and buried.

As of writing, however, the EPA has yet to change the Clean Power Plan page of the agency's website, which still expresses optimism about the plan's chances of success in court:

On February 9, 2016, the Supreme Court stayed implementation of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule. EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations. For the states that choose to continue to work to cut carbon pollution from power plants and seek the agency's guidance and assistance, EPA will continue to provide tools and support.

The Daily Caller

<http://dailycaller.com/2017/03/31/trumps-epa-chief-says-states-dont-have-to-worry-about-coercive-federalism-anymore/>

Trump's EPA Chief Says States Don't Have To Worry About 'Coercive Federalism' Anymore

By Chris White 3/31/17 1:04 PM

Environmental Protection Agency (EPA) chief Scott Pruitt said Thursday that state governors are no longer compelled to comply with Obama-era climate regulations like the Clean Power Plan (CPP).

"The days of coercive federalism are over," Scott Pruitt wrote in a letter to state governors. The former Oklahoma Republican attorney general was referring to what he called former President Barack Obama's heavy-handed environmental regulations.

"Accordingly, I look forward to working with you, your state experts and local communities as we develop a path forward to improve our environment and bolster the economy," he added.

Pruitt also noted in the letter that states "have no obligation to spend resources to comply with a rule that has been stayed by the Supreme Court."

President Donald Trump made eliminating regulations a key part of his presidential campaign, specifically rolling back the EPA-administered CPP, which, among other things, would reduce the country's greenhouse gasses 28 percent over 10 years. He issued an executive order Wednesday nixing the rule.

The order goes even farther than axing the CPP, according to Bloomberg. The memo directs Pruitt to review and work to repeal or revise the rule, rescinds the Department of the Interior's moratorium on coal mining leases on federal lands.

It also repeals the previous administration's guidance on how agents take global warming into account when crafting reviews for various energy projects, and all but eliminates the program that determines the "social cost of carbon," or the SCC.

The Department of Justice asked the D.C. Circuit Court of Appeals Wednesday to suspend its block on the CPP until the EPA completes its review and subsequent repeal.

The Oklahoma Republican has made similar anti-federalism pitches in the past. He told a crowd at the Conservative Political Action Conference last month, for instance, that people are absolutely justified in wanting the president to abolish the agency.

Pruitt said that people should be angry the EPA has abused "its authority" and worked to enhance a federal bureaucracy while reducing the power of the state.

E&E News

<http://www.eenews.net/greenwire/2017/03/31/stories/1060052427>

Second political appointee leaves agency

By Hannah Hess and Kevin Bogardus 3/31/17

Today is David Kreutzer's last day at U.S. EPA.

Kreutzer, a former senior research fellow at the Heritage Foundation on energy and climate change, is in talks to return to the Washington-based think tank after spending the past few months as EPA's deputy associate administrator for policy, economics and innovation.

Kreutzer announced his plans to move on in an email sent to colleagues this week that was first reported by The Washington Post.

Kreutzer told E&E News that his next career move was not entirely settled, and that the email included an "overstatement" that made it seem like he had a particular job secured. Kreutzer confirmed he is in negotiations with Heritage.

"The conversation will be less cryptic after I'm settled in my next job," Kreutzer wrote last night.

A Heritage spokesman would not comment on personnel matters.

Kreutzer was on President Trump's EPA transition team ahead of Inauguration Day, then joined the agency's "beachhead" team of political appointees. He was serving as a senior adviser, according to documents obtained by ProPublica. Kreutzer said his role evolved over his short time at EPA.

His portfolio at Heritage included climate modeling and research challenging the social cost of carbon calculation, which Trump took aim at earlier this week in a sweeping executive order.

"We've all wore so many different hats that for most of the time I wasn't really sure what my official title was. We were too busy for it to matter," Kreutzer said. "However, unlike some of the others, I never actually accepted a permanent position."

Kreutzer has said he does not support any government regulations to limit carbon dioxide emissions, arguing that there is no consensus about its impact on the atmosphere and that such rules are inefficient (Greenwire, Jan. 26).

The news comes two weeks after David Schnare, another member of Trump's beachhead team, resigned. Schnare cited tensions within the agency (Greenwire, March 16).

E&E News

<http://www.eenews.net/greenwire/2017/03/31/stories/1060052437>

Passed deadline limits CRA's scope

By Arianna Skibell 3/31/17

As of today, the number of Obama-era rules that Republicans can toss under the Congressional Review Act has been capped at fewer than 40, according to the watchdog group Public Citizen.

Republican lawmakers have so far used the CRA to toss 13 rules, six of which still require the president's signature.

Conservatives had hoped the CRA could be used to kill hundreds of rules issued in the final months of the Obama administration. But the deadline to introduce resolutions expired yesterday, meaning the additional two dozen rules in the queue are the only ones still eligible to be voted down.

"The passing of Thursday's deadline significantly narrows the scope of the threat posed by the

CRA, which, until yesterday, could have been used by Republicans to target hundreds of rules that their corporate donors oppose and have spent billions lobbying to repeal," Public Citizen wrote in a statement.

The CRA, signed by President Clinton in 1996, requires federal agencies to submit final rules to both Congress and the Government Accountability Office before they can take effect.

Congress then has 60 legislative days to review the rules. During that time, lawmakers can overturn rules with a simple majority vote using fast-track procedures.

Once a rule is overturned, the law prohibits agencies from subsequently issuing a "substantially similar" rule.

Under the CRA, lawmakers had from Jan. 30 of this year to March 30, or 60 days of "continuous session," to introduce resolutions to rescind "midnight" Obama rules.

Days of "continuous session" include every calendar day except for those in which either chamber is in recess for more than three days. Both the House and the Senate have held pro-forma sessions during recess, meaning the necessary continuous days have elapsed.

The House and the Senate measure time differently, and not always by calendar days. The House measures time by legislative days, while the Senate uses session days.

The Senate has 60 session days from Jan. 30, and the House has 60 legislative days from that date to actually vote on resolutions of disapproval that have been introduced.

How many calendar days fit into a session or legislative day varies, depending on leadership. For example, when Senate Democrats were attempting to stall Cabinet confirmations, five calendar days only counted as three session days.

Accordingly, the deadline to fast-track CRA resolutions is expected to expire for the Senate in mid-May and for the House in mid-June, though those dates could change depending on scheduling.

Still, some conservatives are attempting to expand how the CRA could be used to roll back rules as far back as 1996, when the law was enacted (E&E News PM, March 24).

The Coalition for Sensible Safeguards has compiled a list of resolutions that were introduced and the status of their repeal.

A large swath of energy and environmental rules that could still be repealed include the national ambient air quality standards, an update to the Cross-State Air Pollution Rule, gas drilling measurement standards, Arctic drilling safeguards and chemical facility safeguards.

Politico

Oil industry keeps quiet on fuel efficiency rethink

By Ben Lefebvre 3/31/17 10:45 AM

The Trump administration's call for a review of vehicle fuel efficiency standards could end up being a bigger boon for the oil industry than the rollback of fracking regulations and approval of pipelines — and one that energy companies are keeping at an arm's distance.

President Donald Trump has called for the EPA to open up the Obama-era regulations that would force automakers to make vehicles capable of getting nearly 55 miles per gallon on average starting in 2025. Automakers have complained that while they have been able to comply with the Obama administration's shorter-term goals, the 2025 standard isn't feasible.

"We're going to work on the CAFE standards, so you can make cars in America again," Trump told autoworkers at a rally near Detroit, referring to the Corporate Average Fuel Economy standards.

And a pullback of those rules would also benefit the oil producers and refiners who just recorded a record year of gasoline sales in 2016, when domestic demand hit 9.33 million barrels per day. So far, industry heavyweights like Exxon Mobil and Valero Energy have been mostly been mum on a move that could result in higher gasoline consumption.

When first introduced in 2011, the new CAFE standards caused a steep drop in gasoline sales forecasts. The EIA in 2010 had estimated U.S. gasoline consumption to remain flat at around 9 million barrels a day by 2035; after the Obama CAFE standards were issued, that estimate fell to about 7 million barrels per day. The Obama administration claimed that would mean U.S. oil consumption would drop by 12 billion barrels and save consumers more than \$1.7 trillion.

The American Petroleum Institute, Exxon, Valero and other energy companies either declined to comment or said they had no position on Trump's move to rethink the fuel efficiency rules.

So far, Chevron has been the only major U.S. oil company to publicly address reopening the standards for review.

"Any reform of those regulations should balance environmental stewardship with careful consideration of their economic impacts," Chevron spokesman Braden Reddall said.

The only major refining company representative to comment said the industry would probably be more focused on rules determining fuel octane content than seeking any repeal of fuel efficiency standards.

"We support fuel efficiency," said Tesoro federal government affairs vice president Stephen

Brown. “It’s a question of what’s the right trajectory to get there.”

Members of the Senate Commerce, Science and Transportation Committee said so far they have received no word regarding CAFE standards from energy companies. A White House spokesperson said Trump received no input from energy companies when formulating the CAFE standards order.

One liberal group said the energy industry appeared content to remain in the background.

“My feeling would be that they are letting the auto industry do their dirty work on this one,” said Center for American Progress director of domestic energy policy Kate Kelly. “Assuming everything else remains stable, if you relax the standards, all that can do is cause gasoline and oil consumption to come up.”

And the industry may not want to get out ahead of states that have said they may introduce their own higher fuel efficiency standards if Washington falls back. As long as California Gov. Jerry Brown’s pledge to maintain high fuel efficiency standards — which the state can do under its Clean Air Act waiver — energy companies may be content to lobby quietly on the issue, said one Hill source who has spoken to some energy companies about the CAFE review.

“So far it hasn’t been an aggressive push,” the source said. “These companies are thinking, ‘We shouldn’t behave like kids in the candy store.’ California has the right to proceed on their own if the feds withdraw [from higher CAFE standards], so the gains are a lot lower than might be expected.”

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/31/epa-tries-to-praise-trumps-climate-order-ends-up-slamming-him-instead/?utm_term=.9d150d22a55f

EPA tries to praise Trump’s climate order, ends up slamming him instead

By Derek Hawkings 3/31/17, 1:19AM

The Environmental Protection Agency wanted to highlight some of the praise President Trump has received for his new executive order rolling back climate change regulations.

So on Thursday the EPA did what government agencies do whenever the president signs a new policy: sent out a news release loaded with glowing quotes from supporters.

Only one of the quotes — the first on the list, to be exact — wasn't so glowing.

“With this Executive Order, President Trump has chosen to recklessly bury his head in the sand,” read a statement in the release attributed to Sen. Shelley Moore Capito (R-W.Va.).

“Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime,” it read. “With the world watching, President Trump and Administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.”

Not exactly the glittering accolade the president might have expected from a coal country Republican.

Bloomberg BNA reporter Patrick Ambrosio was among the first to point out the obviously off-message excerpt:

Indeed, the statement actually came not from Capito but from Sen. Thomas R. Carper (D-Del.), the top Democrat on the Environment and Public Works Committee, who blasted Trump's executive order on Tuesday.

An honest mistake, or a deliberate act of sabotage from a rogue operator in the EPA press office?

Unclear. But the mix-up did come at a time of unprecedented tension between Trump's political appointees and the EPA's rank and file, as The Washington Post has reported. Many career employees have expressed deep concerns about the new administrator, Scott Pruitt, who repeatedly challenged the agency's legal authority to regulate certain pollutants during his terms as attorney general of Oklahoma.

Whatever the case, the EPA quickly issued a correction Thursday morning, saying an internal draft of the news release was accidentally sent out with Carper's quote.

“We apologize for the error and are making sure that our process is improved as we build our team,” an EPA spokesman told Politico.

The EPA also included Capito’s actual statement, which lauded Trump’s climate moves. It read, in part: “President Trump kept his promise to roll back one of the most harmful acts of overreach by the Obama administration — the so-called Clean Power Plan. If fully implemented, the Clean Power Plan would have completely decimated West Virginia’s vital coal industry while having no meaningful climate impact.”

Trump thanked Capito by name when he signed his executive order at EPA headquarters on Tuesday. The order seeks to erase President Barack Obama’s climate legacy by paring back rules on carbon emissions, lifting a moratorium on federal coal leases and eliminating requirements that federal officials consider climate change impact when making regulatory decisions, as The Washington Post has reported.

Carper’s office told The Hill Thursday that the senator didn’t mind having his quote included in the EPA’s news release.

“Sen. Carper is happy to lend his words to a good cause,” his spokeswoman said.

Huffington Post

http://www.huffingtonpost.com/entry/scott-pruitt-pesticide-chlorpyrifos_us_58dd331de4b0e6ac7092fbd8

EPA Chief’s Refusal To Ban Brain-Damaging Pesticide Shows Profit Trumps Public Safety

By Chris D’Angelo 3/31/17, 5:47AM

WASHINGTON — Defying the recommendation of his own agency’s scientists, Environmental Protection Agency Administrator Scott Pruitt has refused to ban a widely used pesticide that’s been linked to learning disabilities in children.

Pruitt's order, signed late Wednesday, allows chlorpyrifos, an organophosphate insecticide that's been used on crops from broccoli to cranberries since the 1960s, to remain on the market for agricultural use. The EPA proposed in November 2015 under the Obama administration to permanently ban the chemical on food crops, citing potential risks to human health. The move stemmed from a 2007 petition filed by the Natural Resources Defense Council and the Pesticide Action Network North America.

Critics on Thursday condemned Pruitt and President Donald Trump for showing they value corporate profits over public health. The move, less than two months after Pruitt was confirmed as the nation's top environmental officer, signals far looser regulation of harmful substances under the Trump administration.

"If the new administration is willing to support corporate interests over public safety in the face of such strong scientific evidence, then we should expect clear sailing for many other questionable pesticides in the future," Carey Gillam, a HuffPost contributor and research director for U.S. Right to Know, a nonprofit consumer advocacy group, told The Huffington Post in an email.

Pruitt, a lawyer who has shown disdain for scientific research, said the Obama-era proposal to ban the pesticide relied largely on studies "whose application is novel and uncertain, to reach its conclusions."

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt, a longtime antagonist of the agency he now leads, said in a statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results."

Chlorpyrifos, also known by its trade name Lorsban, is used in nearly 100 countries on more than 50 different crops, including corn, soybeans, cranberries and broccoli. Produced by Dow Chemical Co., it was largely banned in 2000 for at-home use in the U.S., but continues to be widely used on thousands of American farms.

Sheryl Kunickis, director of the the U.S. Department of Agriculture's Office of Pest Management Policy, was among those who applauded Pruitt's decision, which she said was "grounded in evidence and science."

"It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world," Kunickis said in a statement.

Dow called it the "right decision for farmers" and said the chemical giant "remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety."

Annual testing reports by USDA show chlorpyrifos residues in nectarines, peaches, cucumbers and other crops. Even low-dose exposure to organophosphates, particularly in the womb, has been found to harm brain development in children, leading to higher risk of disorders like autism.

For years, environmental groups and medical professionals have pushed for an all-out ban on the chemical. In a January letter to EPA, dozens of doctors, nurses and professors urged the agency to revoke all tolerances of chlorpyrifos in food.

"Children especially experience greater exposure to organophosphate pesticides due to their increased hand-to-mouth action, and relative to adults they eat more fruits and vegetables, drink more, and breathe more," the letter states. "With each year of delay in cancelling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains."

Jennifer Lowry, a pediatrician and toxicologist at Children's Mercy in Kansas City and chair to the Council on Environmental Health for the American Academy of Pediatrics, told HuffPost she was "deeply troubled" by Pruitt's decision, which she said denies science that chlorpyrifos causes irreversible harm to children. Multiple studies, she said, have shown that children exposed to organophosphate pesticides, such as chlorpyrifos, have an increased risk for abnormal neurodevelopment, including persistent loss of intelligence and behavior problems.

Lowry added that Pruitt's decision allows the continued exposure of Americans to a substance that will harm children.

The Natural Resources Defense Council, the Pesticide Action Network North America, and Earthjustice have vowed to fight the EPA in court.

"The health of our children depends on it," Miriam Rotkin-Ellman, a senior scientist at NRDC, said in a statement.

The idea that Pruitt, the former attorney general of Oklahoma, would side with industry giants comes as little surprise. As HuffPost has reported, a recent release of Pruitt's Oklahoma emails revealed his close relationship with the oil, gas and utility companies he's now tasked with regulating.

Pruitt has also made clear his low regard for near-universally accepted science, saying last month that he does not believe carbon dioxide is primarily to blame for global warming.

"Misstating the scientific evidence is just that, falsifying the facts," Andrew Rosenberg, director of the Union of Concerned Scientists' Center for Science and Democracy, wrote in a blog post Thursday. "And it is not an excuse for inaction."

Gillam noted that the EPA is now reviewing glyphosate, a commonly used herbicide sold as Roundup that the World Health Organization declared a probable carcinogen last year.

"Certainly if chlorpyrifos is going to get a pass, glyphosate will as well," Gillam said by email. "Corporate profits have once again trumped protection of the public. The administration is making it clear we should expect more of the same."

Huffington Post

http://www.huffingtonpost.com/entry/epa-critical-press-release_us_58ddb285e4b05eae031ea12f

EPA Slams Trump's Climate Change Policy – By Accident

By Mary Papenfuss 3/31/17, 12:02AM

The Environmental Protection Agency issued a statement slamming President Donald Trump's executive order rolling back climate change protections — but it was all a mistake. The statement, not Trump's climate policy.

The EPA issued a press release with positive comments from organizations like the U.S. Chamber of Commerce and the American Petroleum Institute.

But it also included scathing criticism right up top from a senator calling the move “irresponsible” and “irrational,” and accusing Trump of recklessly choosing to “bury his head in the sand.” The statement added: “With the world watching, President Trump and [EPA] administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.”

The quote was misattributed to Sen. Shelley Moore Capito (R-W.Va.), a supporter of coal mining who attended Trump's signing of the order. The statement was actually from Sen. Tom Carper (D-Del.), the top Democrat on the Environment and Public Works Committee and a critic of Trump's environmental policies. A Carper spokesman quipped to The Hill after the press release that he was “happy to lend his words to a good cause.”

The EPA attributed the mistake to human error. An internal draft was mistakenly sent out with the Carper quotes, the agency said in a statement. A corrected press release was sent later Thursday morning with Capito's quotes, which said in part that President Barack Obama's Clean Power Plan “would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact.”

EPA spokesman John Konkus apologized for the error, adding that officials “are making sure that our process is improved as we build our team.”

Another disconnect between the Trump administration and the EPA was apparent Wednesday when agency scientist Michael Kravitz criticized his boss Scott Pruitt and what's happening to the agency charged with protecting the environment in a letter to the editor of The New York

Times.

"I am very saddened by what I see these days under an EPA administrator whose role it is to dismantle the agency that he leads," wrote Kravitz. "Our president comes to the EPA to sign an executive order withdrawing the Clean Power Plan and other environmental policies, and the audience applauds.

"I hope the nightmare ends soon."

Pruitt on Wednesday rejected a petition from environmental groups to ban the insecticide chlorpyrifos on crops, despite concerns by scientists in Pruitt's own agency about potentially serious health risks from chlorpyrifos in water and crop residue.

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E&E News

<http://www.eenews.net/eedaily/2017/03/31/stories/1060052388>

EPA cuts, riders complicate spending talks

By Geof Koss and George Cahlink 3/31/17

Congress is closing in on a final fiscal 2017 spending agreement that would provide fresh dollars for the Energy Department. But disputes over funding levels and policy riders could keep U.S. EPA and the Interior Department from getting new money.

House and Senate appropriators in both parties said they are making headway on an agreement to keep the federal government open when current funding expires at the end of next month. They handed off largely bipartisan deals for most, but not all, of the fiscal 2017 spending bills this week to leaders who will try to assemble a broad, omnibus spending package.

Lawmakers expect to unveil their final fiscal 2017 spending legislation the week of April 24, when they return from a two-week recess that begins April 7. They will then have to pass that deal quickly — or another temporary funding measure — to avoid a government shutdown when current dollars lapse on April 28.

Senate Interior and Environment Appropriations Subcommittee Chairwoman Lisa Murkowski (R-Alaska) said yesterday that she and ranking member Tom Udall (D-N.M.) had submitted their contribution to what appropriators hope will be an omnibus instead of another continuing resolution.

Murkowski said appropriators "were absolutely not working toward a CR" but acknowledged "outstanding issues" remained on the Interior and environment bill. "I feel pretty good with where our subcommittee is right now with Interior. We've got a tough portfolio," she added.

Udall seemed more pessimistic, saying, "There's still a lot undecided at this point." He said he was concerned that the current proposal would prevent EPA from "doing its job."

Indeed, the chief difference is over where to set funding levels for EPA with House and Senate appropriators sticking to the spending proposed in bills they moved earlier this year. The House-backed measure would cut EPA funding by \$164 million to \$7.98 billion, while the Senate bill would provide a more modest cut to \$8.1 billion.

A handful of potential policy riders are also unresolved.

The House bill contains policy provisions that would block several environmental rules and take aim at climate policy opposed by Democrats and some moderate Republicans, while the Senate version left out the most contentious of those add-ons.

Rep. Betty McCollum (D-Minn.), the ranking member on the House Interior and Environment Appropriations Subcommittee, hinted at some of those differences as well as what's at stake in negotiations.

"If Republicans want Democrats to vote for this bill, we expect it to sufficiently fund environmental protections without any poison-pill riders. I hope Republicans will work with us to protect American families and communities rather than shut down the federal government," she said.

The outlook appears better for the energy-water development bill, which funds the Energy Department and the U.S. Army Corps of Engineers.

"Ours is pretty much done," Rep. Mike Simpson (R-Idaho) said this week. He said California water issues and provisions addressing the proposed nuclear waste repository at Yucca Mountain, Nev., were sticking points that leaders would have to resolve.

The Trump administration is seeking \$120 million in fiscal 2018 to restart the licensing process for Yucca Mountain, as well as to launch an interim storage program that would house spent nuclear fuel from nuclear power plants until a permanent repository is ready. However, there's been talk of trying to address the nuclear waste standoff in fiscal 2017.

Simpson put the odds at 75 percent that fresh funding for energy and water programs would come in the package.

Sen. Dianne Feinstein of California, the top Democrat on the Energy and Water Development Appropriations Subcommittee, said she and Chairman Lamar Alexander (R-Tenn.) had come to a tentative agreement but acknowledged "there are a few outstanding issues."

The Interior and environment and the Labor, Health and Human Services, and Education spending bills are the only two of the 11 remaining measures for fiscal 2017 that did not send largely complete bipartisan deals to leaders. Senior leaders will now determine whether differences on those measures can be bridged or if agencies covered by those two bills will get level funding for the rest of fiscal 2017.

Federal agencies have been operating under a stopgap CR since the start of the fiscal year on Oct. 1 that funds them at fiscal 2016 levels with few exceptions. Agencies not getting new dollars in the pending legislation would spend the last five months of the year with dollars still frozen at last year's levels.

It's not yet clear if the package will move first in the House or Senate. The House-passed defense spending bill has been sent to the Senate and could have an agreement for the rest of government funding tacked onto it.

Senate Majority Whip John Cornyn (R-Texas) said yesterday he was "more optimistic" after seeing bipartisan deals forged by appropriators that there would be fresh funding for most of government.

Like House Speaker Paul Ryan (R-Wis.), the Texan vowed there would not be a government shutdown.

But House Minority Leader Nancy Pelosi (D-Calif.) did not rule out Congress ending up passing a CR rather than new spending given "about 200 unresolved differences" and a push by the White House to have border wall funding added to the package.

"We want legislation that meets the needs of the American people and does not have the poisonous riders in it," she added.

Meanwhile, senators this week continued to push back against the Trump administration's fiscal 2018 budget as well.

"The 'Budget Blueprint to Make America Great Again' is misnamed," wrote 19 Senate Democrats this week in a letter to President Trump that objected to the proposal to slash funding at DOE and eliminate multiple programs at the department. "Instead, it would kill jobs and weaken America's competitiveness."

Also, 10 senators from six states Wednesday sent their own bipartisan letter to Trump opposing his budget proposal to kill off the Appalachian Regional Commission.

"Eliminating this essential program would have devastating consequences for the more than 25 million Americans that live in the Appalachian Region today, who need it now more than ever," wrote Sens. Shelley Moore Capito (R-W.Va.), Joe Manchin (D-W.Va.) and others.

E&E News

Pruitt reiterates states don't have to make plans

By Emily Holden 3/31/17

States have been under no obligation to comply with U.S. EPA's Clean Power Plan for more than a year, but Administrator Scott Pruitt didn't leave any room for doubt with guidance he sent to governors yesterday.

In a letter to state leaders, Pruitt reminded them of the February 2016 Supreme Court order staying implementation of the power-sector climate standards and specified that they "have no obligation to spend resources to comply with a Rule that has been stayed."

He added that "the days of coercive federalism are over" and that he looks forward to working with governors, state experts and local communities to "develop a path forward to improve our environment and bolster the economy in a manner that is respectful of and consistent with the rule of law."

The letter comes on the heels of an executive order that President Trump signed Tuesday to reverse the Clean Power Plan. Most states since the stay had shelved their work on specific plans, though some states that supported the rule had initially said they would keep working on plans in the hope that they would have a head start if the courts upheld the Clean Power Plan and let it begin in 2022 or soon thereafter.

Pruitt suggested that if the courts did uphold the rule, states would get extra time to meet requirements.

"To the extent that any deadlines become relevant in the future, case law and practice of the EPA supports the application of day-to-day tolling," he said.

But he also is set to begin a new rulemaking process to undo the Clean Power Plan.

Specific planning efforts for the rule trailed off over the last year, although some states continued to talk broadly about carbon-cutting efforts. Only Minnesota was still holding regular public meetings on the regulation. The Minnesota Pollution Control Agency meets with stakeholders today to discuss what the group has learned and where the state might go from here.

Pruitt's letter is mostly symbolic, as states already were not under any requirement to work on plans to cut carbon emissions. It could, however, complicate political debates in some states.

The governor in Virginia, for example, is taking heat from some Democrats, the former Republican attorney general and consumer advocates for not working to reverse a rate freeze that

was enacted because of a debate over the Clean Power Plan (Climatewire, Feb. 24).

Utilities had argued that electric bills could rise under the Clean Power Plan. So the General Assembly passed legislation to prevent state regulators from reviewing rates. That means companies can't charge customers more, but it also means they can't charge them less. Instead, they have been able to keep extra profits they might otherwise have had to pass on to ratepayers.

Gov. Terry McAuliffe (D) has said the state should wait until the Clean Power Plan is off the books before repealing the measure. That could take years.

In addition to the letter, EPA yesterday morning also sent out and then corrected an error in a press release quoting various conservative lawmakers and industry groups praising the executive order (Greenwire, March 30). The Obama administration, in comparison, typically followed up its announcements with mostly favorable news clips or blog posts from agency leaders.

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Trump Nixed Social Cost of Carbon, But Courts May Play a Role

By Rachel Leven 3/31/17

President Donald Trump has told federal agencies to ignore an Obama-era metric intended to measure the economic impacts of climate change. The move could land the agencies—eventually—in court.

Trump's executive order instead directs agencies to rely on guidance issued in 2003 during President George W. Bush's administration to assess the “social cost of carbon” in its regulations. Academics say the 2003 document doesn't contradict the Obama-era approach, even as the order highlighted certain considerations environmentalists have said could be used to inappropriately lower the number.

However, the move does leaves individual agencies on the hook to come up with their own estimates. And if those estimates aren't of high enough quality, the administration's actions could be legally overturned, attorneys said.

“This is not a smart move from the ability of the administration to carry out their program,” Richard Revesz, director of New York University School of Law's Institute for Policy Integrity, told Bloomberg BNA.

The social cost of carbon measures the impact a federal action will have on carbon emissions and projects those impacts into the future.

The metric has become an industry target because of how the estimate has been used to justify stringent regulations. Some industry representatives have said the number is inappropriately calculated or shouldn't be used at all, but courts have said these emissions must be assessed and that the Obama-era approach is reasonable.

The executive order that said the Obama-era approach to the social cost of carbon would no longer reflect federal policy also pulled back other climate policies from the last administration. The actions have been expected for months, as Trump railed against the policies on the campaign trail.

Obama Group Used Three Models

The social cost of carbon under the Obama administration represents long-term damages expected from a ton of carbon emissions in a given year. Carbon emissions are known to accelerate global warming, which leads to damages such as sea-level rise and increased and more severe wildfires.

The interagency working group that developed it under the Obama administration used three established social cost of carbon models and then averaged them. A ton of carbon emissions at a 3 percent average discount rate is worth \$36 in 2015, \$42 in 2020 and so on, they found.

However, the March 28 executive order said the Obama-era approach will no longer represent government policy. The working group—the Interagency Working Group on Social Cost of Greenhouse Gases—will also be disbanded. The administration urges compliance with a 2003 Office of Management and Budget guidance document—the Circular A-4.

“Effective immediately, when monetizing the value of changes in greenhouse gas emissions resulting from regulations, including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates, agencies shall ensure, to the extent permitted by law, that any such estimates are consistent with the guidance contained in OMB Circular A-4 of September 17, 2003,” the order states.

The OMB document was “the longstanding practice of the federal government, prior to ... the previous administration putting out its own estimates,” a senior Trump administration official who spoke to reporters on condition of anonymity about Trump's executive order said.

The apparent upshot of the order is that individual agencies can and, according to the order, will continue to assess the value of carbon dioxide emission reductions or increases stemming from federal action. While the executive order discarded the Obama-era method, nothing in the Circular A-4 overtly conflicts with the now-sidelined approach, economists said.

“An agency could legitimately follow the executive order and come up with the same number,” Billy Pizer, a Duke University economics professor, told Bloomberg BNA. “It may be hard to imagine in this political environment ... but it certainly would be inconsistent with the executive order.”

Room for Legitimate Debate

Pizer told Bloomberg BNA that two factors highlighted in the order—discount rates and global or U.S. impacts—could be debated by reasonable people and, if changed, could lead to a significantly lower number than the Obama-era approach. Pizer said he supports the path the Obama-era group took.

One issue highlighted by the Trump administration is whether to consider the domestic or global impacts of greenhouse gas emissions affected by federal decisions.

Global impacts were considered under the interagency working group, partly in light of the impact that U.S. action can have on other countries to take their own mitigation actions that would circuitously benefit U.S. citizens, Pizer said. However, one could reasonably argue that U.S. regulatory policy is intended to protect U.S. citizens from harm, and therefore only direct domestic impacts should be considered, he said.

The other is the question of what discount rate to use: How much we should pay now for impacts of increased or reduced greenhouse gas emissions up to hundreds of years down the road? There are similarly reasonable arguments regarding why it is appropriate to use lower discount rate, Pizer said.

For example, the lower discount rate is considered the appropriate way to assess impacts for cost-benefit analyses, Pizer said. However, other parts of the cost-benefit analysis outside the social cost of carbon may not be executed in line with that theoretically appropriate approach and so there is an argument to calculate the social cost of carbon the same way as the rest of the cost-benefit approach, he said.

Where Debate Ends

Some have advocated for flipping the social cost of carbon's estimate more aggressively.

Nick Loris, an economist at the Heritage Foundation, said if this value has to be estimated, for example, the appropriate approach to quantifying the impact of reducing carbon emissions is to look at “the abated temperature increase,” rather than the broader climate impacts.

But many economists, including Pizer, stood by the Obama-era approach as the one that would yield the most realistic estimate of the impacts.

Michael Hanemann, director of Arizona State University's Center for Environmental Economics and Sustainability Policy, told Bloomberg BNA that—barring steps that would actually make the estimate higher—taking a broadly different approach to that of the working group would have the same value as “looking at chicken entrails.”

The Trump administration will have some legal restraints guiding what it can and can't do, legal scholars told Bloomberg BNA.

Rulings by the U.S. Court of Appeals for the Ninth Circuit in 2007 over fuel efficiency standards, and the U.S. Court of Appeals for the Seventh Circuit in 2016 over certain energy efficiency standards, say agencies have to consider the social cost of carbon and that the method the Obama administration developed to do so is reasonable, respectively, several academics and environmentalists said.

Dan Farber, Sho Sato Professor of Law at the University of California, Berkeley, pointed to a 2015 opinion written by now-deceased Justice Antonin Scalia in a case over the Environmental Protection Agency's mercury emissions limits for power plants. That opinion further bolsters the argument that agencies must take a holistic look at costs and benefits of its actions, he said.

However, not everyone agreed these rulings are bulletproof or affect federal actions equally.

Will Yeatman, a fellow at the free market-oriented Competitive Enterprise Institute, told Bloomberg BNA he believed these rulings could be overturned and said the Ninth Circuit decision applies specifically to analyses done under the National Environmental Policy Act.

Confidence on All Sides

Observers from all sides said the use of social cost of carbon and the numbers used by agencies could easily end up being vetted by the courts. Even if the administration includes a social cost of carbon estimate in its regulations, some may lack the resources to do a thorough analysis.

David Doniger, director of the Natural Resources Defense Council's Climate and Clean Air Program, expressed confidence that, were the social cost of carbon to be inappropriately lowered, “they're going to find their rules are legally defective just the same way the Bush administration's was in the last decade.” Yeatman was equally confident the Trump administration could defeat those kinds of legal challenges by citing relevant academic literature, and could overturn the earlier Ninth Circuit ruling.

“The whole essence of the social cost of carbon is based on assumptions,” Yeatman said. “It wouldn't shock me if they re-did the social cost of carbon and it came out near zero.”

Others were skeptical the Trump administration would actually have each individual agency take a hard look at the social cost of carbon to assess it in rulemakings.

Noah Kaufman, a climate economist for the World Resources Institute's U.S. Climate Initiative, told Bloomberg BNA, “I worry more that this is just the first step toward directing agencies not to address the social cost of carbon at all.”

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Power Plant Arguments Canceled as Trump EPA Seeks Lawsuit Pause

By Andrew Childers 3/31/17

A federal appellate court canceled upcoming arguments over the EPA's carbon dioxide limits for power plants after the Trump administration announced plans to review and possibly pull back the regulation (North Dakota v. EPA, D.C. Cir., No. 15-1381, 3/30/17).

States and utilities' challenges to the carbon dioxide performance standards for new power plants were scheduled to be argued April 17, but the U.S. Court of Appeals for the District of Columbia Circuit announced March 30 it would cancel that argument while it considers the administration's request to pause the lawsuits while it reconsiders the rule.

The administration's request comes after President Donald Trump signed an executive order March 28 directing the Environmental Protection Agency to reconsider the Obama administration's climate change regulations, particularly carbon dioxide limits on both new and existing power plants.

Challenges to the carbon dioxide standards for new power plants were scheduled to be heard by Judges Sri Srinivasan and Cornelia Pillard—both appointed by President Barack Obama—and Judge Karen LeCraft Henderson, a President George H.W. Bush appointee.

Last year a 10-judge panel for the D.C. Circuit heard a full day of argument over the Obama administration's carbon limits for existing power plants, known as the Clean Power Plan. The court has not yet issued its decision in that case, but the administration has requested that litigation be held in abeyance as well (West Virginia v. EPA, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Also March 30, EPA Administrator Scott Pruitt sent a letter to states telling them they have “no obligation to spend resources” to comply with the rule because it has been stayed by the Supreme Court.

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http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241696&vname=dennotallissues&wsn=49947200

House Bill on EPA Science Board Heads to the Senate

By Rachel Leven 3/31/17

A House-passed bill that would change the makeup of a board that offers scientific advice to the EPA may face better odds in the Senate than a previous version last session.

The EPA Science Advisory Board Reform Act of 2017 (H.R. 1431), sponsored by Rep. Frank

Lucas (R-Okla.), passed on a 229-193 House vote March 30.

It is similar to one passed in the last Congress by a 236-181 margin and would put in place new qualifications for board members—including disqualifying scientists who have EPA grants or contracts as having a conflict of interest.

The measure also would require that “at least ten percent of the membership of the Board are from State, local, or tribal governments.”

Backers says the bill aims to make the board more independent and accessible for public comment. Opponents say it would block scientists with expertise from serving on the board, increase industry's influence and unnecessarily slow the board's activities.

The bill now heads to the Senate, where its predecessor in the last session of Congress—the EPA Science Advisory Board Reform Act of 2015 (H.R. 1029)—never received a hearing. A spokesman for the majority on the Senate Environment and Public Works Committee previously told Bloomberg BNA the committee is committed to the bill's stated goal of ensuring Environmental Protection Agency science is more open and transparent.

The American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation are among the legislation's key supporters. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The Congressional Budget Office estimates the bill, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, would cost less than \$500,000 annually for additional personnel and administrative expenditures. It would not affect direct spending or budget deficits, the office said in its March 27 cost estimate.

The House Science, Space and Technology Committee approved the bill March 9 by a 19-14 vote.

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Trump to Decide on Climate Pact by Late May, Spicer Says

By Dean Scott 3/31/17

President Donald Trump will decide whether to keep the U.S. in the 2015 Paris climate pact by late May “if not sooner,” White House Press Secretary Sean Spicer said, in hopes of settling the issue before the president heads to the May 26-27 Group of Seven summit in Italy.

“We are currently reviewing issues related to the agreement and expect to have a decision by the

time of the G-7 summit, late May-ish if not sooner,” Spicer told reporters March 30.

The comment came amid continued speculation over whether Trump intends to make good on his campaign vow to “cancel” U.S. participation in the Paris deal, the first truly global climate agreement, or keep the U.S. in the pact.

Trump began rolling back myriad Obama administration climate policies under a March 28 executive order—directing the Environmental Protection Agency to suspend, revise, or rescind its power plant carbon pollution limits—but has thus far put off a decision on U.S. participation in the Paris deal.

The Paris Agreement, the first to include climate actions by developed and developing nations alike, was reached after more than two decades of United Nations negotiations.

Trump, who has labeled climate change a hoax, has also argued that the Paris deal would hurt U.S. economic competitiveness.

President Barack Obama accepted the Paris deal using his executive authority to negotiate international agreements. Trump, as a result, can essentially undo U.S.

The Hill

<http://thehill.com/policy/energy-environment/326661-oklahoma-bar-association-investigating-ethics-complaint-against>

Oklahoma Bar Association investigating Pruitt over private email use

By Max Greenwood 3/31/17, 8:14AM

The Oklahoma Bar Association is investigating an ethics complaint alleging that Environmental Protection Agency Administrator Scott Pruitt misled a Senate committee about his use of a private email address during his tenure as Oklahoma attorney general.

The complaint was filed last week by the Center for Biological Diversity and University of Oklahoma law professor Kristen Van de Biezenbos. In it, they allege that Pruitt incorrectly told members of the Senate Environment and Public Works Committee that he never used a private email to conduct official business as Oklahoma's top law enforcement official.

The investigation was first reported by KSWO-TV in Oklahoma.

A public records lawsuit, however, found several instances in which Pruitt did, in fact, use a private email address for official business.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," the complaint reads.

By misrepresenting the facts, it said, Pruitt violated Oklahoma's rules of professional conduct.

Pruitt was confirmed by the Senate last month, though his nomination to the top EPA job was a subject of controversy for Democrats and environmental advocates, who pointed to Pruitt's reportedly antagonistic relationship with the environmental agency. During his tenure as Oklahoma attorney general, Pruitt sued the EPA more than a dozen times.

The Hill

<http://thehill.com/policy/energy-environment/326635-conservatives-fear-epa-chief-going-soft-on-climate-science>

Conservatives fear EPA chief going soft on climate science

By Timothy Cama, 3/31/17, 6:00AM

The head of the Environmental Protection Agency (EPA) is facing heavy pressure from conservatives to take on the science of climate change.

Undoing the 2009 endangerment finding — the Obama administration's conclusion that greenhouse gases are a threat and can be regulated — would make it easier for EPA chief Scott Pruitt to reverse President Obama's climate agenda.

That's because it would remove the legal obligation under the Clean Air Act to regulate carbon dioxide, removing a key tool that environmentalists are counting on as they try to keep Obama's policies like the Clean Power Plan in place.

The finding that greenhouse gases "endanger both the public health and the public welfare of current and future generations" is the lynchpin of climate policy under the Clean Air Act, and removing it could effectively gut many of EPA regulations.

But while Pruitt has expressed skepticism of the scientific consensus that greenhouse gases are the primary cause of climate change, repealing or changing the endangerment finding would be a significant lift, according to experts and supporters of climate policies, with the vast majority of scientific data working against Pruitt.

“The science is very clear. The endangerment finding is basically unquestioned throughout the scientific community and the legal community,” said Sen. Jeff Merkley (D-Ore.). “So I think it would be a very bizarre, unproductive and destructive thing to revisit that.”

President Trump’s executive order this week to start the process of rolling back nearly all of former Obama’s climate agenda did not ask the EPA to reconsider the endangerment finding.

Sources close to EPA leadership said that early drafts of the order would have instructed the department review the finding. But Pruitt successfully pushed against that.

Those sources claimed that Pruitt, the former attorney general of Oklahoma and a frequent litigant against the Obama administration, was concerned about his political future and didn’t want to be labeled anti-science.

“They’re looking for reasons to not do it because they don’t want a fight,” a person familiar with the deliberations said, referring to Pruitt and his allies.

Breitbart News columnist James Delingpole wrote this week that Pruitt should consider resigning if he won’t repeal the endangerment finding, saying that he “is more interested in building his political career than he is taking on the Green Blob.”

In addition, the conservative Competitive Enterprise Institute filed a petition last month formally asking the EPA to launch a review, saying, “since that finding was issued, evidence has continued to mount that directly contradicts it.”

The original push in the administration to strike down the endangerment finding came in part because Trump promised last year, in a questionnaire from the fossil fuel-backed American Energy Alliance (AEA), to review the finding if he were elected.

Apart from that, Trump frequently railed against Obama’s climate policies. He called climate change a “hoax” and promised to remove barriers to fossil fuel production and use.

Pruitt has walked a fine line on climate change science. He said at his Senate confirmation hearing in January that he believes the climate is changing, but that the extent to which human activity contributes to it, and what should be done about it, are “subject to continuing debate and dialogue, and well it should be.”

But on CNBC earlier this month, Pruitt said carbon dioxide is not the “primary contributor” to global warming, and said that Congress should have a say over what the United States does, if anything, about climate change.

The EPA's endangerment finding came in response to the Supreme Court's 2007 decision in *Massachusetts v. EPA*. The court ruled that greenhouse gases from cars are air pollutants, and said the EPA is obligated to decide whether their emissions rise to the level of requiring regulation.

The fact that Trump's executive order didn't mention the finding does not preclude future action on the matter.

The EPA did not return a request for comment on whether it plans to consider repealing the endangerment finding.

Republicans in Congress are split on Pruitt's decision to forego action on the finding for the time being.

Sen. Lisa Murkowski (R-Alaska), chairwoman of the Energy and Natural Resources Committee, sponsored unsuccessful legislation to undo the finding shortly after it was issued, out of concern of the impact on fossil fuel industries like oil, which is important to Alaska's economy.

But she said she is bothered by the Trump administration's plans.

"It seems to me a rational, responsible approach, given what he has in front of him," Murkowski said of Pruitt's agenda. "So I'm not questioning why or if he has to go back to the endangerment finding."

Rep. Kevin Cramer (R-N.D.), a close Trump ally who served last year as an adviser to his campaign on energy policy, said he doesn't like the finding, but he understands the need to avoid action for now.

"It's a little bit like healthcare. If you let perfect be the enemy of good, you sometimes don't get anything," Cramer said, comparing it to the recent fight over repealing and replacing ObamaCare.

"And I think the endangerment finding just would have been such a heavy lift, because legally, to unwind it would have just been so onerous. That's not to say we shouldn't try or continue to try, over time. But it shouldn't hold up these other, more immediate things," he continued.

But Rep. Joe Barton (R-Texas), vice chairman of the Energy and Commerce Committee, said he'd like to see the administration take on climate science.

"They ought to really take a look at the endangerment finding that the Obama administration issued when they first got in office," he said. "I think it's very flawed and should be, at a minimum, revisited."

Tom Pyle, president of AEA, agreed that the Trump administration should make it a priority.

“A lot of the hard work they’ll be doing over the next several years could easily be undone should another administration come in and have a significantly different perspective on the issue,” said Pyle, who led Trump’s transition team at the Energy Department.

Pyle said his group doesn’t necessarily think that greenhouse gases do not cause climate change. But Congress should decide the issue, and the Clean Air Act is not the right tool, he said.

“I think it only makes sense for the president and the administration to do these things,” Pyle said. “I don’t think the advice he’s been getting about putting it aside for now is sound.”

Forbes

<https://www.forbes.com/sites/emilywillingham/2017/03/31/what-we-know-about-chlorpyrifos-the-pesticide-the-epa-thinks-is-bad-but-wont-ban/#46682f33181f>

What We Know About Chlorpyrifos, The Pesticide The EPA Thinks Is Bad But Won't Ban

By Emily Willingham 3/31/17 7:47 AM

The US Environmental Protection Agency (EPA) this week reversed course on a recommendation to ban the widely used pesticide chlorpyrifos (trade name Lorsban) and denied a petition to arrest use of the pesticide on crops. Confusingly, the agency had recommended in 2015 that the chemical, already banned for application in homes in 2001, be banned for use on crops, as well. That proposal has now been spirited away under the anti-regulatory guidance of the EPA's new administrator, Trump appointee Scott Pruitt. No doubt, more such looking away from the evidence lies in our nation's future.

And the evidence is difficult to avoid. Indeed, it's remarkably easy to find, even on the EPA's own website.

The original 2001 ban was put into place because of findings suggesting genuine neurotoxic threat with use of the pesticide in homes. Similar findings support the now-not-happening crops ban. The pesticide is undoubtedly effective and does what it's intended to do: destroy pests that try to destroy crops. But like so many such chemicals, its success for us can also be a threat to us.

Many of these chemicals work by interrupting or damaging the nervous or reproductive systems of their targets. Even though we are clearly not aphids and these and other insects are among our most distant animal relations, the pathways of neural and reproductive development we share have more in common than you might think. And that means what disrupts them holds potential to disrupt us.

Walking the line between "benefit for humanity because it feeds all of us" and "harmful to humanity because of negative health effects" has often been a balancing act for those using these agricultural tools. No farming approach is immune to these risks, not even organically

grown crops, which still are exposed to pesticides.

But some pesticides are clearly more harmful than others. The question is where chlorpyrifos lands on that spectrum.

To hear those who work with it tell their story, it's fine: You just send the kids inside before you apply it. But the thing is, people who work directly with a pesticide aren't the people examining its effects on a larger scale, across a definitively exposed population. Turns out, those populations exist thanks to the 2001 ban on chlorpyrifos use in homes. Researchers had access to a group of children whose mothers were exposed during pregnancy before the ban and could compare them to those who were not. Their findings suggest a link between the pesticide and various adverse developmental outcomes.

Take an example from women living in New York City. Before the ban, the air they breathed indoors was almost 100% positive for the chemical, and up to 70% of their babies had the pesticide in plasma samples from their umbilical cords. A Columbia study found that children subject to this exposure had deficits in IQ and working memory. That same group compared exposed children to children unexposed (born after the ban) and found significant motor and other developmental delays in the high-exposure group.

Yet another study from this group found that this evidence of harm was stronger for boys than for girls, in keeping with many indications of differences in neural resilience between the sexes. Again, this effect was linked to reduced scores on working memory, especially among exposed boys.

The litany of effects or correlations between chlorpyrifos and adverse developmental outcomes continues. A sampling:

An association with reduced birthweight among those with the highest in utero exposures.

A link between prenatal exposure and tremor in childhood. This finding is relevant because the pesticide acts on an enzyme involved in motor signaling.

Effects for children living in rural areas on their intellectual development following prenatal exposure, based on levels of a metabolite in maternal urine.

From the Columbia group, findings of structural changes in the developing brain, associated with exposure to the pesticide.

As far back as the 1990s, evidence of an effect on the sensory system following exposure.

The EPA has its own human health risk assessment as it relates to chlorpyrifos. From their website:

Based on current labeled uses, the revised analysis indicates that expected residues of chlorpyrifos on food crops exceed the safety standard under the Federal Food, Drug, and

Cosmetic Act (FFDCA). In addition, the majority of estimated drinking water exposure from currently registered uses, including water exposure from non-food uses, continues to exceed safe levels, even taking into account more refined drinking water exposure. This assessment also shows risks to workers who mix, load and apply chlorpyrifos pesticide products.

Their complete risk assessment for this pesticide is linked here. Among their conclusions:

In summary, the EPA's assessment is that the CCCEH study, with supporting results from the other 2 U.S. cohort studies and the seven additional epidemiological studies reviewed in 2015, provides sufficient evidence that there are neurodevelopmental effects occurring at chlorpyrifos exposure levels below that required for AChE inhibition.

Of course, human risk isn't the only consideration. The EPA has also evaluated the ecological risks. In the agency's executive summary from that evaluation (Word doc), they provide a table of species that the chemical is expected to affect adversely. The agency has concluded that chlorpyrifos is likely to adversely affect 1778 species, including plants, birds, fish, mammals, and nontargeted insects.

The current status of the chlorpyrifos situation is that the EPA has, under a court-ordered deadline, denied a petition from the National Resources Defense Counsel and Pesticide Action Network North America to revoke all pesticide tolerances (maximum food levels) and all registrations for the pesticide. Objections to this decision must be registered within 60 days of the date of the official filing with the Federal Register. The order denying the petition notes that the action:

may also be of interest to agricultural producers, food manufacturers, or pesticide manufacturers.

No surprise there.

The agency also says that it will:

continue to review the science addressing neurodevelopmental effects of chlorpyrifos as part of the ongoing registration review and complete our assessment by the statutory deadline of October 1, 2022.

Five years is a long time and no doubt a lot of money for those with a vested interest in keeping the chlorpyrifos faucet (chlorpyrifaucet?) running. The question then still remains: What harm will this chemical do to the developing brains of our nation's children and the ecosystems around our nation's crops in the meantime? As its own website shows, the EPA had already made its decision, or at least it had until Pruitt came on board.

Huffington Post

http://www.huffingtonpost.com/entry/pruitt-bar-association-ethics_us_58ddd190e4b05eae031eaaa2

Oklahoma Bar Association Probing Ethics Complaint Against Scott Pruitt

By Mary Papenfuss 3/31/17, 5:23AM

The Oklahoma Bar Association has launched an investigation into an ethics complaint filed against Environmental Protection Agency chief Scott Pruitt.

The complaint accuses Pruitt of breaching Oklahoma Rules of Professional Conduct by allegedly misrepresenting the facts when he told a Senate committee at his confirmation hearing that he did not use a personal email address to conduct business while attorney general of Oklahoma, reported KSWO-TV.

Documents that the attorney general's office released through an Open Records Act lawsuit in Oklahoma appear to contradict sworn testimony from Pruitt, the state's former attorney general.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," states the complaint, filed last week by the nonprofit Center for Biological Diversity, which works to protect endangered species, and University of Oklahoma law professor Kristen van de Biezenbos.

Emails released as part of the lawsuit include a message from an executive of the American Fuel and Petrochemical Manufacturers association to Pruitt's me.com address, asking him to use his position as the state's attorney general to help roll back renewable fuel standards set by the Obama administration, according to a statement from the Center for Biological Diversity.

"We have ... opened this matter for investigation," said a letter from the bar to van de Biezenbos dated Tuesday. "After the matter has been fully investigated, your grievance and the response of [Pruitt's] attorney will be presented to the Professional Responsibility Commission."

Attorney Amy Atwood from the Center for Biological Diversity said in a statement that she was "very pleased" about the investigation. "Lying to Congress is a serious ethical breach, and it doesn't help that Pruitt's use of private emails reflect potential collusion with the very oil and gas industry he's now supposed to be regulating," she said.

Pruitt has not commented on the investigation nor on the complaint.

He was narrowly confirmed as EPA head last month despite Democrats' calls to delay the vote until the release of new documents detailing his relationship with oil and gas companies while he was attorney general.

A group of law professors last month filed a "professional misconduct" complaint against President Donald Trump's chief counsel Kellyanne Conway with the Washington, D.C., Office of Disciplinary Counsel of the Board of Professional Responsibility, which addresses complaints about members of the local bar. They argued that Conway's several lies (including linking immigrants to a fictitious "Bowling Green massacre") was bringing "shame upon the legal profession."

Huffington Post

http://www.huffingtonpost.com/entry/trump-executive-order-natural-disasters_us_58dbea6ee4b0cb23e65da328

Here's How Trump's Climate change Order Will Make Natural Disasters Harder To Face

By Lydia O'Connor 3/31/17, 5:47AM

President Donald Trump's executive order on climate change threatens state and local governments' ability to prepare for and cope with extreme weather events, climate and planning experts warn.

The executive order, issued Tuesday, goes beyond undoing Obama-era commitments to clean energy. It revokes an Obama-era executive order aimed at planning for natural disasters linked to climate change, including sea-level rise, droughts, hurricanes, wildfires and extreme heat.

That now-revoked 2013 executive order, entitled "Preparing the United States for the Impacts of Climate Change," charged federal agencies with helping states and localities improve resilience to natural disasters and established a task force of state, local and tribal leaders dedicated to determining needs.

Trump's action could sever those governments from important federal data and tools to help them prepare for extreme weather, experts said.

A burned out Porsche is seen near a partially burned home in the Santa Cruz Mountains near Loma Prieta, California on September 27, 2016. Climate experts say wildfires are likely to increase as the planet warms.

"It's almost as if we think if we don't have the information, it won't happen," said Rachel Cleetus, a lead economist and climate policy manager with the Union of Concerned Scientists. "But that's not true. We can bury our heads in the sand, but the facts are still the facts. All we're doing is preventing people from being able to take protective measures ahead of time."

The task force established by the 2013 executive order has played an important role guiding cities and states in climate-smart planning.

In 2014, the task force released recommendations for how federal agencies can aid the rest of the country, and helped develop the Climate Resilience Toolkit, a continually updated online database with climate data and projections, case studies on responses to past disasters, and directories of experts and funding opportunities. The toolkit was assembled with climate information gathered by federal agencies.

The toolkit has helped places like low-lying Tybee Island, Georgia, prepare for the impacts of sea-level rise, which can contribute to more frequent and widespread flooding. Last year, the island's city council approved plans to improve the only road to the island, retrofit stormwater drainage systems and stabilize shorelines to block high water.

Cleetus said it's unclear what revoking the Obama order will mean in practice. Nor is it certain how far the Trump administration will go to halt climate-preparedness efforts at federal agencies, or to curb access to resources like the Climate Resilience Toolkit. But Trump's order doesn't bode well.

"It really goes after some of the core missions of these agencies," Cleetus said, pointing to the Federal Emergency Management Agency's help with coastal flooding and wildfires as an example. "It's terrifying to see a government that actually wants to go backwards when there's so much work to do," she added.

Revoking the Obama executive order may be part of a twofold assault on some federal agencies. Those that help with climate change response and resilience efforts, such as FEMA, the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, all are threatened with steep cuts under Trump's budget proposal.

"It's not some theoretical threat in the future," Cleetus said. "We're already experiencing these impacts, so it's a real dereliction of responsibility to say they essentially don't care, that they're not going to help."

Streets damaged during Hurricane Sandy are seen in Ortley Beach, New Jersey, in this November 10, 2012. One year later, President Obama released an executive order on planning for such disasters.

The possible effects of climate change have already been widespread: Years of severe drought in California and other Western states followed by a record-wet winter, a series of "1-in-1,000-year" floods last summer, and a decade of record-low Arctic sea ice.

Trump's order "sets everyone up for a lot more of these disasters," warned Kevin Trenberth, a distinguished senior scientist at the National Center for Atmospheric Research.

Some big cities may be spared. Steven Cohen, executive director of Columbia University's Earth Institute and a former EPA official, said he expects efforts like New York City's nearly \$20 billion plan to fortify the city will move forward.

"This will continue without the federal government, but would benefit from federal infrastructure funding and additional federal funding on the science and engineering of climate change and climate science," Cohen said. "Even though removing these federal policies is not helpful, real estate developers, insurance companies, power companies and many other organizations are assessing the financial risks of climate change and factoring it into their decision making."

Trump's action could be especially bad news for smaller communities lacking the resources to collect their own data, said climatologist Michael Mann, director of the Earth System Science Center at Pennsylvania State University.

"The regions with those who are least well off, who have the least adaptive capacity and the least resilience ... rural regions and the South," are most likely to suffer, Mann said. "Many of the very people who voted for Trump are being directly hurt by his policies."

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Washington Examiner

<http://www.washingtonexaminer.com/epas-pruitt-to-governors-the-days-of-coercive-federalism-are-over/article/2618959>

EPA's Pruitt to governors: 'The days of coercive federalism are over'

By John Siciliano 3/30/17 7:30 PM

Environmental Protection Agency Administrator Scott Pruitt assured states on Thursday that they do not have to comply with any part of the Obama-era climate regulations for existing power plants, known as the Clean Power Plan.

"The days of coercive federalism are over," Pruitt declared in a letter sent to state governors. "Accordingly, I look forward to working with you, your state experts and local communities as we develop a path forward to improve our environment and bolster the economy in a manner that is respectful of and consistent with the rule of law."

The letter was sent in fulfilling one of EPA's obligations under the "Energy Independence Executive Order" that President Trump signed Tuesday.

Pruitt emphasized in the letter that the Supreme Court halted the regulation more than a year ago and that states "have no obligation to spend resources to comply with a rule that has been stayed by the Supreme Court."

The Justice Department on Wednesday asked the D.C. Circuit Court of Appeals to suspend its review of the Clean Power Plan as the EPA conducts its own review of the regulation.

If the appeals court upholds the regulation, although even proponents don't completely believe it will survive entirely, the Supreme Court halt would still stay in place. And the EPA and the Trump Justice Department will have to take their fight over the regulation to the high court.

Governors in California, Washington and Oregon have said they will intensify their own efforts to reduce greenhouse gas emissions. Many scientists blame the emissions from the burning of fossil fuels for causing the Earth's temperature to rise, resulting in catastrophic sea-level rise, ocean acidification and more severe storms.

The U.S. Conference of Mayors issued a statement Wednesday night opposing Trump's

executive order and the rollback of the Clean Power Plan.

"The U.S. Conference of Mayors supports the Clean Power Plan as an essential next step to address and lower greenhouse gas emissions as part of our nation's responsibility to address global warming," said Tom Cochran, CEO and executive director of the mayors organization. "The U.S. utility sector must be part of the solution and the [power plan] is a framework to ensure necessary reductions from this sector."

He also said that the mayors stand behind the 2015 Paris climate change accord. Trump has not decided if he will withdraw from the non-binding United Nations' agreement.

The White House said Thursday that a decision is expected to come in May. The climate agreement is expected to come up in talks on April 6-7, when Trump hosts Chinese President Xi Jinping at his Mar-a-Lago retreat in Florida.

AP

http://hosted.ap.org/dynamic/stories/U/US_ETHICS_COMPLAINT_PRUITT?SITE=AP&SECTION=HOME&

Oklahoma Bar Association opens investigation of ex-AG Pruitt

By Tim Talley 3/30/17 8:36 PM

OKLAHOMA CITY (AP) -- The Oklahoma Bar Association has opened an investigation into an ethics complaint against former state Attorney General Scott Pruitt, now administrator of the Environmental Protection Agency, according to a letter from the association's general counsel.

The complaint, filed by the Center for Biological Diversity, a nonprofit organization that works to protect endangered species, and associate professor Kristen van de Biezenbos of the University of Oklahoma College of Law, says Pruitt may have violated the Oklahoma Rules of Professional Conduct when he told a U.S. Senate committee at his confirmation hearings in January that he only used his attorney general's email address to conduct official business.

The complaint, dated March 21, says documents released by the attorney general's office through an Open Records Act lawsuit in Oklahoma seem to contradict Pruitt's sworn testimony and indicate Pruitt also used a personal email address to conduct official business.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," the complaint states.

Emails and other documents released by the attorney general's office indicate Pruitt coordinated closely with fossil-fuel companies and special interest groups who worked to undermine federal efforts to curb planet-warming carbon emissions.

Democrats on the U.S. Senate committee that held the confirmation hearings have criticized Pruitt's close ties to the oil and gas industry. As Oklahoma's attorney general, Pruitt frequently sued the agency he now leads, including filing a multistate lawsuit against the EPA opposing the Obama administration's plan to limit planet-warming carbon emissions from coal-fired power plants.

The Oklahoma Bar Association opened an investigation on Tuesday, according to a letter to van de Biezenbos from General Counsel Gina Hendryx. Among other things, Bar Association rules state "it is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation," according to the complaint.

On Thursday, neither the EPA nor Pruitt immediately responded to emails and phone calls seeking comment about the complaint.

Amy Atwood, an attorney for the Center for Biological Diversity who is based in Portland, Oregon, said the organization wants to know whether Pruitt misrepresented the truth during his Senate testimony, which would be in violation of Bar Association guidelines.

"That's one of the most important ethical rules that applies to lawyers," Atwood said. "I hope the investigation will help us all understand why Pruitt was so cagey about his communications with fossil-fuel interests."

AP

http://hosted.ap.org/dynamic/stories/U/US_EPA_MISQUOTE?SITE=AP&SECTION=HOME&TEMPLATE=D

EPA corrects media release misquoting GOP senator

3/30/17 5:05 PM

WASHINGTON (AP) -- The Environmental Protection Agency has corrected a media release falsely quoting a Republican senator as criticizing President Donald Trump over his denial of man-made climate change.

The media release Thursday was supposed to be a roundup of statements from officials supporting Trump's executive order seeking to eliminate Obama-era restrictions on carbon emissions from coal-fired power plants.

Sen. Shelley Moore Capito of West Virginia was misquoted as saying Trump has chosen to "recklessly bury his head in the sand" about the "clear science" showing the Earth is warming. The release also misspelled the first name of the GOP senator, a staunch Trump booster whose home state is heavily dependent on coal mining.

The quote was actually from Sen. Tom Carper, a Delaware Democrat.

EPA spokesman John Konkus apologized for the mistake.

Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/kreutzer-to-leave-epa-in-latest-agency-departure-085733>

Kreutzer to leave EPA in latest agency departure

By Andrew Restuccia and Alex Isenstadt 3/30/17, 5:44PM

David Kreutzer, a special adviser to EPA Administrator Scott Pruitt, is leaving the agency on Friday and hopes to rejoin the Heritage Foundation, marking the second departure of a political appointee this month.

Kreutzer told POLITICO he is in negotiations to accept a job at Heritage working on "productivity and economic growth" with an emphasis on labor and trade.

"Of course, you can't talk about productivity and economic growth with talking about energy. So, I will still be somewhat involved in that arena," he said. Kreutzer spent nearly a decade at the conservative think tank before joining the Trump transition team after the election and then EPA.

Kreutzer's anticipated departure comes two weeks after another EPA political appointee, David Schnare, resigned, saying he was bothered by disloyalty to President Donald Trump at the agency among both political appointees and career employees.

Kreutzer said his decision to leave had nothing to do with the reported tension at the agency.

Schnare and Kreutzer were both members of Trump's "beachhead" team, a group of temporary political appointees tasked with helping to run government agencies while the administration gets its nominees in place.

POLITICO reported earlier this week on tension at EPA, including clashes between Pruitt's chief

of staff, Ryan Jackson, and Don Benton, the agency's White House-assigned senior adviser. Conservatives have also lashed out at Pruitt for arguing against including language revoking the agency's 2009 "endangerment finding" in an executive order Trump signed this week.

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Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/petition-sets-up-showdown-on-endangerment-finding-085738>

Petition sets up showdown on endangerment finding

By Alex Guillen 3/30/17 7:40 PM

A petition asking EPA to revoke its 2009 greenhouse gas endangerment finding has set the agency on a path toward a conflict with conservative groups that Administrator Scott Pruitt has sought to avoid.

The petition, filed last month by the conservative Competitive Enterprise Institute and released to POLITICO today, argues that since EPA declared that carbon dioxide and other greenhouse gases pose a threat to public health and welfare, "evidence has continued to mount that directly contradicts it." The 2009 endangerment finding paved the way for the Obama administration to regulate those emissions from cars, power plants and other sources.

CEI's petition cites an alleged pause in global warming since 1998, argues that warming falls within the Earth's historical temperature fluctuations, and argues that the atmosphere is less sensitive to CO2 buildup than previously predicted in warming models.

The vast majority of climate scientists say those arguments are not borne out by the data. They argue that research shows the "pause" never really happened, note that the rapidity of global temperature changes is unparalleled in the historical record, and say warming has outpaced most models' predictions.

Pruitt personally lobbied to drop language from President Donald Trump's executive order this week calling for a review of the endangerment finding. While groups like CEI and The Heritage Foundation continue to press for a review, many legal observers note that the overwhelming body of evidence on climate change means any such effort would be both difficult and highly vulnerable to a court challenge.

WHAT'S NEXT: EPA must respond to the petition within a reasonable time frame, but there is no specific deadline. The agency may deny CEI's request, cementing the endangerment finding and EPA's obligation to regulate carbon emissions. Or it could launch a new rulemaking to revise or rescind the finding in response to the petition.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/30/a-second-climate-change-skeptic-is-leaving-the-epa-and-will-return-to-heritage/?utm_term=.7ebc3ceaa53e

A second climate-change skeptic is leaving the EPA and will return to Heritage

By Steven Mufson, Chris Mooney and Juliet Ellperin 3/30/17, 10:06PM

A conservative economist who has written that “no consensus exists that man-made emissions are the primary driver of global warming” has resigned from the Environmental Protection Agency, according to multiple people notified of the move Thursday.

David Kreutzer, who also served on the president-elect’s “landing team” for the EPA, is returning to the conservative Heritage Foundation. Kreutzer, formerly a fellow at Heritage, left it for a permanent job at the EPA focused on economic policy. According to multiple officials there, he sent an email this week to colleagues informing them that Friday would be his last day.

Kreutzer is the second member of President Trump’s environmental team to leave the agency in recent weeks. David Schnare, a conservative who had worked at the free-market Energy and Environmental Legal Institute before joining the Trump administration, departed two weeks ago. Both were vocal critics of the Obama administration and advocated lifting federal restrictions on activities in the energy industry as well as elsewhere in the private sector.

An EPA spokeswoman declined to comment Thursday, noting that the agency does not comment on personnel matters. A Heritage spokesman said the same. Kreutzer did not respond to requests for comment by email and phone.

Top aides to EPA Administrator Scott Pruitt lobbied Kreutzer to stay, according to an individual familiar with the discussions who spoke on the condition of anonymity to talk about personnel decisions.

Working within the EPA would have provided Kreutzer with a prime platform to advance his

arguments that the science behind climate change is not sufficiently robust to support stringent federal limits on greenhouse gases — just the sort of regulations that the agency has begun to reverse under Pruitt.

Kreutzer, an economist who previously served as the mayor of Dayton, Va., has pressed for recalculating the “social cost of carbon,” a metric that the Obama administration had used to assess the negative impacts of climate change. Kreutzer advocated for using a higher “discount rate” that would lower the current value of benefits or costs to take place far into the future. In short, the change would make it harder to justify action to reduce greenhouse-gas emissions.

Some administration backers, such as Thomas J. Pyle, who headed the Trump transition team for the Energy Department, want to abolish it altogether because it can vary so dramatically based on the discount rate an analyst uses.

“At the end of the day, the social cost of carbon is an arbitrary metric that has no place in federal rulemaking,” said Pyle, who heads the Institute for Energy Research.

Kreutzer played an important role in shaping and writing the executive order on energy policy that Trump issued Tuesday. The directive dismantled a White House working group on the social cost of carbon and rescinded a variety of Obama-era technical documents on the matter. It said that “when monetizing the value of changes in greenhouse gas emissions resulting from regulations,” agencies should rely on a 2003 guidance that the Office of Management and Budget issued during the George W. Bush administration.

That reference represented a big victory for Kreutzer. The 2003 OMB guidance instructed agencies to calculate the future costs of climate change using 3 percent and 7 percent discount rates. The lower rate makes immediate climate action more compelling and worthwhile; the 7 percent rate minimizes the benefits of taking climate action now.

Other economists and budgeting experts say that the government should use a single rate and that 7 percent is much too high given the nature of future damages as well as economic factors.

University of Chicago economics professor Michael Greenstone, who helped develop the social cost of carbon for the previous administration, said in an email that the 7 percent figure was “just plain outdated” because global interest rates had dropped so much since 2003, and that because “climate change could prove to be highly disruptive,” financial markets would normally dictate a lower rate.

Cass Sunstein, a Harvard Law School professor who was administrator of OMB’s Office of Information and Regulatory Affairs during the Obama administration, wrote in a column for Bloomberg News, “In the intergenerational context, there are compelling technical as well as ethical reasons to choose a relatively low rate, so as to avoid treating our children and grandchildren as if they are worthless.

He added that “use of a 7 percent rate would be pretty ridiculous — and should be struck down, in court, as arbitrary.”

Washington Post

https://www.washingtonpost.com/news/capital-weather-gang/wp/2017/03/30/the-networks-all-but-ignored-climate-change-last-year-thats-bad-news-for-science/?utm_term=.9594d8b6418c

The networks all but ignored climate change last year. That’s bad news for science.

By Angela Fritz 3/30/17, 4:53PM

It’s not that there isn’t enough climate change news to cover. 2015 was the hottest year on record at that point, the Paris agreement was signed by dozens of nations, and California was in its worst drought in perhaps millennia. But if you get your news from the networks, there’s a good chance you didn’t know any of this was going on.

Stories about climate change on network news — ABC, NBC, CBS and Fox (the network, not Fox News) — dropped 66 percent, according to [research by Media Matters](#).

If you break it down into actual time spent, network news is devoting a shockingly small number of minutes per year on climate change. It’s shocking because, as a recent Gallup poll shows, a

majority of Americans are crossing the divide between those concerned about climate change and those who think it's baloney.

In 2015, network news — Sunday shows and evening news — spent 146 minutes on the topic of climate change. In 2016, it was 50 minutes.

Network news devoted 50 minutes to climate change in 2016

By its own description, Media Matters is a “501(c)(3) progressive research and information center dedicated to comprehensively monitoring, analyzing, and correcting conservative misinformation in the U.S. media.” It's a media fact-checking organization. Most fact-checkers focus on politicians. Media Matters analyzes statements and coverage of the media itself.

It does this because what the media choose to cover is important. In fact, in 1927, the Federal Radio Commission (later the FCC) was created by Congress in part to ensure that radio stations (which transitioned into TV stations) were broadcasting in the public's interest, whether that be news or entertainment. At one point, there was a rule that said networks had to devote equal time to all political candidates to prevent bias.

Before the airwaves were “deregulated” in 1996 by the Telecommunications Act, Congress saw value in limiting bias on the airwaves. Now, it's up to the viewers to decide — but they can't do that if they're not getting the information in the first place.

This report is important right now, when Congress and the White House actively seek to limit the role of science in policymaking.

On Wednesday, the House Committee on Science, Space and Technology held a hearing to (ostensibly) debate the scientific method. It devolved into finger-pointing, name-calling and one Republican congressman yelling at Democrats and a leading climate researcher. In one down-to-Earth moment, Suzanne Bonamici (D-Ore.) asked the panel of scientists what Congress could do to advance science, “instead of holding this unproductive hearing.”

Later that afternoon, Congress voted to limit which scientific studies the Environmental Protection Agency can use to create regulations. If signed, the law would be entirely subjective

— the EPA will be able to use only “the best available science.”

Best according to whom?

In an example of how this “best science” thing would work, EPA Administrator Scott Pruitt defied his own scientists and said no thanks on a rule that would protect children from developmental disorders.

The EPA’s own scientists say the chemical chlorpyrifos, which can cause memory decline in young children, is showing up in our food and water at unsafe levels. “The chemical was banned in 2000 for use in most household settings but today is still used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples,” the New York Times reported Thursday.

Pruitt’s response: We need to be “certain” that the chemical is causing defects before we limit it in our food.

If you have ever taken a fifth-grade science class, you know that there’s no such thing as scientific certainty. You will never hear a scientist say she is “100 percent certain” about anything, because that’s not the way science works. The U.S. judicial system understands this:

There is no common definition across science or within disciplines as to what threshold establishes certainty. Therefore, whether couched as “scientific certainty” or “[discipline] certainty,” the term is idiosyncratic to the witness.

In the case of chlorpyrifos, the expert “witness” is the scientist.

I’m not surprised that the networks don’t want to talk about climate change — it’s a hot-button political issue because politicians made it that way. As it turns out, politicians are inherently the only people who can politicize a subject.

Here's the truth, though: Despite the lack of coverage in 2016, half the country thinks climate change is caused by human activity and believe it's a problem. Less than a quarter of our population think climate change is either not happening or is no big deal.

The media have a responsibility to report the facts. If scientists agree an extreme weather event was made worse by climate change, viewers need to know that, not just because it is true, but because people do think it's a problem. I don't know whom network news and Congress are serving by turning a blind eye to climate change, but according to these poll results, it's not the voters.

Breitbart

<http://www.breitbart.com/big-government/2017/03/30/deep-state-suspected-epa-press-release-prank/>

'Deep State' Suspected In EPA Press Release 'Error'

By Joel Pollak 3/30/17

***The Hill* connects ongoing conflict among staff at the Environmental Protection Agency to a press release on President Trump's executive order on energy independence Tuesday that included a quote slamming the president's new policy.**

The press release included a quote, mistakenly attributed to Sen. Shelley Moore Capito (R-WV), "With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational ... Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime."

In fact, the *Hill* notes, that statement was made by Sen. Tom Carper (D-DE).

The *Hill* cites the "rift between many of the EPA's nonpolitical career employees and the political leaders appointed by Trump" in connection with the press release.

EPA staff reportedly said they had mistakenly released a draft of the statement. However, the agency did not explain why an attack on the president would have been included in any draft of any release.

Last week, the Washington Free Beacon's Adam Kredo reported an ongoing effort by Obama loyalists to sabotage the Trump administration by, among other methods, altering press releases.

"[H]oldovers from the Obama administration are working to undermine the Trump administration's agenda through efforts to alter official communications, a number of administration officials confirmed in conversations with the Washington Free Beacon," Kredo reported.

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Washington Times

<http://www.washingtontimes.com/news/2017/mar/30/epa-issues-press-release-using-democrats-quote-bla/>

Dept. of D'oh! EPA goofs, issues press release slamming Trump's climate actions

By Ben Wolfgang 3/30/17

The Environmental Protection Agency on Thursday sent out a press release touting praise for President Trump's rollback of Obama-era climate-change regulations this week — but the agency accidentally led the email with a blistering quote from a Democratic critic.

The press release includes a quote from Sen. Tom Carper, Delaware Democrat and ranking member on the Senate Environment and Public Works Committee, wrongly attributed to Sen. Shelley Moore Capito, a West Virginia Republican.

The email, titled "What They Are Saying About President Trump's Executive Order on Energy Independence," opens with a complete and total takedown of that order.

"With this executive order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," reads the quote by Mr. Carper but listed as coming from Ms. Capito.

Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime," it continues. "With the world watching, President Trump and [EPA] Administrator [Scott] Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come."

The agency quickly sent out a revised press release correcting the embarrassing error.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

To: So, Katherine[so.katherine@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: McGonagle, Kevin
Sent: Fri 3/31/2017 5:18:54 PM
Subject: RE: OPA Clips 3/31/17

Below: E&E News, CBS News, Business Insider, The Daily Caller, E&E News (2), Politico, Washington Post, Huffington Post (2), E&E News (2), Bloomberg BNA (4), The Hill (2), Forbes, Huffington Post (2), Washington Examiner (3/30), AP (2) (3/30), Politico (2) (3/30), Washington Post (2) (3/30), Breitbart (3/30), Washington Times (3/30)

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E&E News

<http://www.eenews.net/greenwire/2017/03/31/stories/1060052441>

EPA authority could become political bargaining chip

By Hannah Hess 3/31/17

Conservatives who want to bar U.S. EPA from writing any climate regulations got a nod from Administrator Scott Pruitt this week.

Pruitt signaled to his far-right critics in an interview with Breitbart News Network a willingness to revisit the so-called endangerment finding that allows EPA to regulate greenhouse gases under the Clean Air Act.

"I think that if there are petitions for reconsideration for the endangering findings, we'll have to address those at some point," he told the news network, formerly led by President Trump's chief strategist, Steve Bannon. "I don't know if they've actually been filed in that regard, but our objective and our role is to do what the law requires."

One such petition was filed Feb. 17 by the Competitive Enterprise Institute and board members of the Science and Environmental Policy Project, a Virginia-based advocacy organization

founded by atmospheric physicist Fred Singer.

Singer was among the first and most prominent scientists to challenge the notion of human-caused global warming. His work has been touted by prominent Republican critics of greenhouse gas regulations, including Sen. Jim Inhofe (R-Okla.).

The 31-page document reflects many of the arguments made by business groups and limited government advocates in the wake of EPA's 2009 finding. It asserts there has been no statistically significant atmospheric warming despite increased atmospheric CO2 levels, changes in global temperatures in recent decades are "far from unusual," and balloon and satellite data demonstrate the atmosphere is "far less sensitive" to CO2 than what has been predicted by climate models.

In 2010, then-Administrator Lisa Jackson rejected 10 petitions filed by the attorneys general of red states, stating that the evidence proving climate change is a problem remains "robust, voluminous and compelling" (Climatewire, July 30, 2010).

As attorney general of Oklahoma, Pruitt joined other states trying to stop the finding through court action, although he did not take a leading role.

Three Supreme Court decisions now have affirmed EPA's authority to regulate greenhouse gases under the Clean Air Act.

Pruitt came under fire in a story published by Breitbart News Network the day before the interview, in which Breitbart accused Pruitt of "failing to drain the swamp at the EPA" (Greenwire, March 28).

Advisers to the Trump administration's EPA transition team, like CEI's Myron Ebell and other long-established climate contrarians, have encouraged grass-roots activism against the 2009 finding that carbon dioxide endangers public health.

Last week, they rallied like-minded parties to contact their members of Congress and press Trump to follow through on campaign trail promises (Greenwire, March 24).

EPA's finding points to scientific evidence about the impacts of climate change on events like heat waves, drought and sea-level rise. Environmentalists have predicted the chances of overturning the finding are "nil," though some Republican lawmakers have shown an appetite for attempting to rewrite the Clean Air Act (E&E News PM, March 10).

CBS News

<http://www.cbsnews.com/news/epa-scott-pruitt-overrides-agency-research-under-obama-pesticide-chlorpyrifos-farmers/>

EPA chief assailed – and applauded – for not banning controversial pesticide

3/31/17 9:44 AM

Scott Pruitt, the head of the Environmental Protection Agency, is facing criticism over his decision not to ban a controversial farm pesticide. It overrides his own agency's research showing the pesticide chlorpyrifos posed a health risk to children and farm workers.

Since 2000, chlorpyrifos has been banned for most household use. But in California's Central Valley, some 90 percent of almond orchards still use the pesticide, as do thousands of farms nationwide, reports CBS News correspondent John Blackstone. Under the Obama administration, the EPA wanted to ban farm use. But the Trump administration has other ideas.

Farmers face an army of small enemies – and many use the pesticide as ammunition.

"It's very important for controlling those small pests that can wreak havoc on the crop," said Michael Kelley, president and CEO of Central California Almond Growers Association.

For half a century, the chemical, also known as Lorsban, has been used on dozens of crops including corn, strawberries and citrus. But the EPA's scientists under the Obama administration found that the chemical could interfere with children's brain development.

"Reduced IQ, lower working memory scores, increased ADHD, those are the kinds of things. They were small effects but they were definitely meaningful," former EPA assistant administrator James Jones said.

In 2015, the agency proposed banning farmers from using the pesticide. But now the new leadership of the EPA said "reliable data, overwhelming in both quantity and quality, contradicts the reliance" on the earlier studies. The EPA said farmers can continue to use the pesticide while more research is done.

Pruitt issued a statement: "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting health and the environment." Those in agriculture like Kelley agree.

"Did you ever worry about using it?" Blackstone asked.

"No I didn't. It's been around since 1965 and I've found it to be not only very effective but very safe," Kelley said.

But critics say effective substitute pesticides are readily available.

"It would not be that difficult to take this off the plate of parents and it is a bit confounding to me as to why we're not as a government doing that," Jones said.

Dow AgroSciences, which makes the product, applauded the move. It said it remains confident

that authorized uses of chlorpyrifos offers “wide margins of protection for human health and safety.”

Business Insider

<http://www.businessinsider.com/trumps-epa-letter-ignore-obamas-clean-power-plan-2017-3>

Trump’s EPA just told states they can ignore a key Obama-era carbon dioxide regulation

By Rafi Letzter 3/31/17 11:52 AM

Obama's marquee effort to control carbon emissions from US power plants, the Clean Power Plan, is effectively dead, according to EPA chief Scott Pruitt.

The plan sought to cut emissions from power plants in 47 US states to 32% below 2005 levels by 2030. But it was stayed by the Supreme Court in February 2016, pending the results of litigation related to the regulation.

On Tuesday, the Clean Power Plan became the target of an executive order from President Trump that laid the groundwork for it to undergo a complex, time-consuming repeal process.

In a letter that Pruitt sent to governors across the US on March 30, the EPA chief wrote that states have "no obligation to spend resources" on the stayed order — adding, "the days of coercive federalism are over."

In effect, Pruitt is telling the governors that even though it could take years to take the Clean Power Plan off the books (and handle any court challenges during that process), states can treat the plan as though it's already dead and buried.

As of writing, however, the EPA has yet to change the Clean Power Plan page of the agency's website, which still expresses optimism about the plan's chances of success in court:

On February 9, 2016, the Supreme Court stayed implementation of the Clean Power Plan pending judicial review. The Court’s decision was not on the merits of the rule. EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations. For the states that choose to continue to work to cut carbon pollution from power plants and seek the agency’s guidance and assistance, EPA will continue to provide tools and support.

The Daily Caller

<http://dailycaller.com/2017/03/31/trumps-epa-chief-says-states-dont-have-to-worry-about-coercive-federalism-anymore/>

Trump's EPA Chief Says States Don't Have To Worry About 'Coercive Federalism' Anymore

By Chris White 3/31/17 1:04 PM

Environmental Protection Agency (EPA) chief Scott Pruitt said Thursday that state governors are no longer compelled to comply with Obama-era climate regulations like the Clean Power Plan (CPP).

"The days of coercive federalism are over," Scott Pruitt wrote in a letter to state governors. The former Oklahoma Republican attorney general was referring to what he called former President Barack Obama's heavy-handed environmental regulations.

"Accordingly, I look forward to working with you, your state experts and local communities as we develop a path forward to improve our environment and bolster the economy," he added.

Pruitt also noted in the letter that states "have no obligation to spend resources to comply with a rule that has been stayed by the Supreme Court."

President Donald Trump made eliminating regulations a key part of his presidential campaign, specifically rolling back the EPA-administered CPP, which, among other things, would reduce the country's greenhouse gasses 28 percent over 10 years. He issued an executive order Wednesday nixing the rule.

The order goes even farther than axing the CPP, according to Bloomberg. The memo directs Pruitt to review and work to repeal or revise the rule, rescinds the Department of the Interior's moratorium on coal mining leases on federal lands.

It also repeals the previous administration's guidance on how agents take global warming into account when crafting reviews for various energy projects, and all but eliminates the program that determines the "social cost of carbon," or the SCC.

The Department of Justice asked the D.C. Circuit Court of Appeals Wednesday to suspend its block on the CPP until the EPA completes its review and subsequent repeal.

The Oklahoma Republican has made similar anti-federalism pitches in the past. He told a crowd at the Conservative Political Action Conference last month, for instance, that people are absolutely justified in wanting the president to abolish the agency.

Pruitt said that people should be angry the EPA has abused "its authority" and worked to enhance a federal bureaucracy while reducing the power of the state.

E&E News

Second political appointee leaves agency

By Hannah Hess and Kevin Bogardus 3/31/17

Today is David Kreutzer's last day at U.S. EPA.

Kreutzer, a former senior research fellow at the Heritage Foundation on energy and climate change, is in talks to return to the Washington-based think tank after spending the past few months as EPA's deputy associate administrator for policy, economics and innovation.

Kreutzer announced his plans to move on in an email sent to colleagues this week that was first reported by The Washington Post.

Kreutzer told E&E News that his next career move was not entirely settled, and that the email included an "overstatement" that made it seem like he had a particular job secured. Kreutzer confirmed he is in negotiations with Heritage.

"The conversation will be less cryptic after I'm settled in my next job," Kreutzer wrote last night.

A Heritage spokesman would not comment on personnel matters.

Kreutzer was on President Trump's EPA transition team ahead of Inauguration Day, then joined the agency's "beachhead" team of political appointees. He was serving as a senior adviser, according to documents obtained by ProPublica. Kreutzer said his role evolved over his short time at EPA.

His portfolio at Heritage included climate modeling and research challenging the social cost of carbon calculation, which Trump took aim at earlier this week in a sweeping executive order.

"We've all wore so many different hats that for most of the time I wasn't really sure what my official title was. We were too busy for it to matter," Kreutzer said. "However, unlike some of the others, I never actually accepted a permanent position."

Kreutzer has said he does not support any government regulations to limit carbon dioxide emissions, arguing that there is no consensus about its impact on the atmosphere and that such rules are inefficient (Greenwire, Jan. 26).

The news comes two weeks after David Schnare, another member of Trump's beachhead team, resigned. Schnare cited tensions within the agency (Greenwire, March 16).

E&E News

Passed deadline limits CRA's scope

By Arianna Skibell 3/31/17

As of today, the number of Obama-era rules that Republicans can toss under the Congressional Review Act has been capped at fewer than 40, according to the watchdog group Public Citizen.

Republican lawmakers have so far used the CRA to toss 13 rules, six of which still require the president's signature.

Conservatives had hoped the CRA could be used to kill hundreds of rules issued in the final months of the Obama administration. But the deadline to introduce resolutions expired yesterday, meaning the additional two dozen rules in the queue are the only ones still eligible to be voted down.

"The passing of Thursday's deadline significantly narrows the scope of the threat posed by the CRA, which, until yesterday, could have been used by Republicans to target hundreds of rules that their corporate donors oppose and have spent billions lobbying to repeal," Public Citizen wrote in a statement.

The CRA, signed by President Clinton in 1996, requires federal agencies to submit final rules to both Congress and the Government Accountability Office before they can take effect.

Congress then has 60 legislative days to review the rules. During that time, lawmakers can overturn rules with a simple majority vote using fast-track procedures.

Once a rule is overturned, the law prohibits agencies from subsequently issuing a "substantially similar" rule.

Under the CRA, lawmakers had from Jan. 30 of this year to March 30, or 60 days of "continuous session," to introduce resolutions to rescind "midnight" Obama rules.

Days of "continuous session" include every calendar day except for those in which either chamber is in recess for more than three days. Both the House and the Senate have held pro-forma sessions during recess, meaning the necessary continuous days have elapsed.

The House and the Senate measure time differently, and not always by calendar days. The House measures time by legislative days, while the Senate uses session days.

The Senate has 60 session days from Jan. 30, and the House has 60 legislative days from that date to actually vote on resolutions of disapproval that have been introduced.

How many calendar days fit into a session or legislative day varies, depending on leadership. For example, when Senate Democrats were attempting to stall Cabinet confirmations, five calendar days only counted as three session days.

Accordingly, the deadline to fast-track CRA resolutions is expected to expire for the Senate in mid-May and for the House in mid-June, though those dates could change depending on scheduling.

Still, some conservatives are attempting to expand how the CRA could be used to roll back rules as far back as 1996, when the law was enacted (E&E News PM, March 24).

The Coalition for Sensible Safeguards has compiled a list of resolutions that were introduced and the status of their repeal.

A large swath of energy and environmental rules that could still be repealed include the national ambient air quality standards, an update to the Cross-State Air Pollution Rule, gas drilling measurement standards, Arctic drilling safeguards and chemical facility safeguards.

Politico

<https://www.politicopro.com/energy/story/2017/03/oil-companies-quiet-fuel-efficiency-154834>

Oil industry keeps quiet on fuel efficiency rethink

By Ben Lefebvre 3/31/17 10:45 AM

The Trump administration's call for a review of vehicle fuel efficiency standards could end up being a bigger boon for the oil industry than the rollback of fracking regulations and approval of pipelines — and one that energy companies are keeping at an arm's distance.

President Donald Trump has called for the EPA to open up the Obama-era regulations that would force automakers to make vehicles capable of getting nearly 55 miles per gallon on average starting in 2025. Automakers have complained that while they have been able to comply with the Obama administration's shorter-term goals, the 2025 standard isn't feasible.

"We're going to work on the CAFE standards, so you can make cars in America again," Trump told autoworkers at a rally near Detroit, referring to the Corporate Average Fuel Economy standards.

And a pullback of those rules would also benefit the oil producers and refiners who just recorded a record year of gasoline sales in 2016, when domestic demand hit 9.33 million barrels per day. So far, industry heavyweights like Exxon Mobil and Valero Energy have been mostly mum on a move that could result in higher gasoline consumption.

When first introduced in 2011, the new CAFE standards caused a steep drop in gasoline sales forecasts. The EIA in 2010 had estimated U.S. gasoline consumption to remain flat at around 9 million barrels a day by 2035; after the Obama CAFE standards were issued, that estimate fell to about 7 million barrels per day. The Obama administration claimed that would mean U.S. oil consumption would drop by 12 billion barrels and save consumers more than \$1.7 trillion.

The American Petroleum Institute, Exxon, Valero and other energy companies either declined to comment or said they had no position on Trump's move to rethink the fuel efficiency rules.

So far, Chevron has been the only major U.S. oil company to publicly address reopening the standards for review.

“Any reform of those regulations should balance environmental stewardship with careful consideration of their economic impacts,” Chevron spokesman Braden Reddall said.

The only major refining company representative to comment said the industry would probably be more focused on rules determining fuel octane content than seeking any repeal of fuel efficiency standards.

“We support fuel efficiency,” said Tesoro federal government affairs vice president Stephen Brown. “It’s a question of what’s the right trajectory to get there.”

Members of the Senate Commerce, Science and Transportation Committee said so far they have received no word regarding CAFE standards from energy companies. A White House spokesperson said Trump received no input from energy companies when formulating the CAFE standards order.

One liberal group said the energy industry appeared content to remain in the background.

“My feeling would be that they are letting the auto industry do their dirty work on this one,” said Center for American Progress director of domestic energy policy Kate Kelly. “Assuming everything else remains stable, if you relax the standards, all that can do is cause gasoline and oil consumption to come up.”

And the industry may not want to get out ahead of states that have said they may introduce their own higher fuel efficiency standards if Washington falls back. As long as California Gov. Jerry Brown’s pledge to maintain high fuel efficiency standards — which the state can do under its Clean Air Act waiver — energy companies may be content to lobby quietly on the issue, said one Hill source who has spoken to some energy companies about the CAFE review.

“So far it hasn’t been an aggressive push,” the source said. “These companies are thinking, ‘We shouldn’t behave like kids in the candy store.’ California has the right to proceed on their own if the feds withdraw [from higher CAFE standards], so the gains are a lot lower than might be expected.”

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/31/epa-tries-to-praise-trumps-climate-order-ends-up-slamming-him-instead/?utm_term=.9d150d22a55f

EPA tries to praise Trump's climate order, ends up slamming him instead

By Derek Hawkings 3/31/17, 1:19AM

The Environmental Protection Agency wanted to highlight some of the praise President Trump has received for his new executive order rolling back climate change regulations.

So on Thursday the EPA did what government agencies do whenever the president signs a new policy: sent out a news release loaded with glowing quotes from supporters.

Only one of the quotes — the first on the list, to be exact — wasn't so glowing.

“With this Executive Order, President Trump has chosen to recklessly bury his head in the sand,” read a statement in the release attributed to Sen. Shelley Moore Capito (R-W.Va.).

“Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime,” it read. “With the world watching, President Trump and Administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.”

Not exactly the glittering accolade the president might have expected from a coal country Republican.

Bloomberg BNA reporter Patrick Ambrosio was among the first to point out the obviously off-message excerpt:

Indeed, the statement actually came not from Capito but from Sen. Thomas R. Carper (D-Del.),

the top Democrat on the Environment and Public Works Committee, who blasted Trump's executive order on Tuesday.

An honest mistake, or a deliberate act of sabotage from a rogue operator in the EPA press office?

Unclear. But the mix-up did come at a time of unprecedented tension between Trump's political appointees and the EPA's rank and file, as The Washington Post has reported. Many career employees have expressed deep concerns about the new administrator, Scott Pruitt, who repeatedly challenged the agency's legal authority to regulate certain pollutants during his terms as attorney general of Oklahoma.

Whatever the case, the EPA quickly issued a correction Thursday morning, saying an internal draft of the news release was accidentally sent out with Carper's quote.

"We apologize for the error and are making sure that our process is improved as we build our team," an EPA spokesman told Politico.

The EPA also included Capito's actual statement, which lauded Trump's climate moves. It read, in part: "President Trump kept his promise to roll back one of the most harmful acts of overreach by the Obama administration — the so-called Clean Power Plan. If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact."

Trump thanked Capito by name when he signed his executive order at EPA headquarters on Tuesday. The order seeks to erase President Barack Obama's climate legacy by paring back rules on carbon emissions, lifting a moratorium on federal coal leases and eliminating requirements that federal officials consider climate change impact when making regulatory decisions, as The Washington Post has reported.

Carper's office told The Hill Thursday that the senator didn't mind having his quote included in the EPA's news release.

“Sen. Carper is happy to lend his words to a good cause,” his spokeswoman said.

Huffington Post

http://www.huffingtonpost.com/entry/scott-pruitt-pesticide-chlorpyrifos_us_58dd331de4b0e6ac7092fbd8

EPA Chief's Refusal To Ban Brain-Damaging Pesticide Shows Profit Trumps Public Safety

By Chris D'Angelo 3/31/17, 5:47AM

WASHINGTON — Defying the recommendation of his own agency's scientists, Environmental Protection Agency Administrator Scott Pruitt has refused to ban a widely used pesticide that's been linked to learning disabilities in children.

Pruitt's order, signed late Wednesday, allows chlorpyrifos, an organophosphate insecticide that's been used on crops from broccoli to cranberries since the 1960s, to remain on the market for agricultural use. The EPA proposed in November 2015 under the Obama administration to permanently ban the chemical on food crops, citing potential risks to human health. The move stemmed from a 2007 petition filed by the Natural Resources Defense Council and the Pesticide Action Network North America.

Critics on Thursday condemned Pruitt and President Donald Trump for showing they value corporate profits over public health. The move, less than two months after Pruitt was confirmed as the nation's top environmental officer, signals far looser regulation of harmful substances under the Trump administration.

“If the new administration is willing to support corporate interests over public safety in the face of such strong scientific evidence, then we should expect clear sailing for many other questionable pesticides in the future,” Carey Gillam, a HuffPost contributor and research director for U.S. Right to Know, a nonprofit consumer advocacy group, told The Huffington Post in an email.

Pruitt, a lawyer who has shown disdain for scientific research, said the Obama-era proposal to

ban the pesticide relied largely on studies “whose application is novel and uncertain, to reach its conclusions.”

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt, a longtime antagonist of the agency he now leads, said in a statement. “By reversing the previous Administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

Chlorpyrifos, also known by its trade name Lorsban, is used in nearly 100 countries on more than 50 different crops, including corn, soybeans, cranberries and broccoli. Produced by Dow Chemical Co., it was largely banned in 2000 for at-home use in the U.S., but continues to be widely used on thousands of American farms.

Sheryl Kunickis, director of the the U.S. Department of Agriculture’s Office of Pest Management Policy, was among those who applauded Pruitt’s decision, which she said was “grounded in evidence and science.”

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world,” Kunickis said in a statement.

Dow called it the “right decision for farmers” and said the chemical giant “remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety.”

Annual testing reports by USDA show chlorpyrifos residues in nectarines, peaches, cucumbers and other crops. Even low-dose exposure to organophosphates, particularly in the womb, has been found to harm brain development in children, leading to higher risk of disorders like autism.

For years, environmental groups and medical professionals have pushed for an all-out ban on the chemical. In a January letter to EPA, dozens of doctors, nurses and professors urged the agency to revoke all tolerances of chlorpyrifos in food.

“Children especially experience greater exposure to organophosphate pesticides due to their increased hand-to-mouth action, and relative to adults they eat more fruits and vegetables, drink more, and breathe more,” the letter states. “With each year of delay in cancelling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains.”

Jennifer Lowry, a pediatrician and toxicologist at Children’s Mercy in Kansas City and chair to the Council on Environmental Health for the American Academy of Pediatrics, told HuffPost she was “deeply troubled” by Pruitt’s decision, which she said denies science that chlorpyrifos causes irreversible harm to children. Multiple studies, she said, have shown that children exposed to organophosphate pesticides, such as chlorpyrifos, have an increased risk for abnormal neurodevelopment, including persistent loss of intelligence and behavior problems.

Lowry added that Pruitt’s decision allows the continued exposure of Americans to a substance that will harm children.

The Natural Resources Defense Council, the Pesticide Action Network North America, and Earthjustice have vowed to fight the EPA in court.

“The health of our children depends on it,” Miriam Rotkin-Ellman, a senior scientist at NRDC, said in a statement.

The idea that Pruitt, the former attorney general of Oklahoma, would side with industry giants comes as little surprise. As HuffPost has reported, a recent release of Pruitt’s Oklahoma emails revealed his close relationship with the oil, gas and utility companies he’s now tasked with regulating.

Pruitt has also made clear his low regard for near-universally accepted science, saying last month that he does not believe carbon dioxide is primarily to blame for global warming.

“Misstating the scientific evidence is just that, falsifying the facts,” Andrew Rosenberg, director

of the Union of Concerned Scientists' Center for Science and Democracy, wrote in a blog post Thursday. "And it is not an excuse for inaction."

Gillam noted that the EPA is now reviewing glyphosate, a commonly used herbicide sold as Roundup that the World Health Organization declared a probable carcinogen last year.

"Certainly if chlorpyrifos is going to get a pass, glyphosate will as well," Gillam said by email. "Corporate profits have once again trumped protection of the public. The administration is making it clear we should expect more of the same."

Huffington Post

http://www.huffingtonpost.com/entry/epa-critical-press-release_us_58ddb285e4b05eae031ea12f

EPA Slams Trump's Climate Change Policy – By Accident

By Mary Papenfuss 3/31/17, 12:02AM

The Environmental Protection Agency issued a statement slamming President [Donald Trump's](#) executive order [rolling back climate change protections](#) — but it was all a mistake. The statement, not Trump's climate policy.

The EPA issued a press release with positive comments from organizations like the U.S. Chamber of Commerce and the American Petroleum Institute.

But it also included scathing criticism right up top from a senator calling the move "irresponsible" and "irrational," and accusing Trump of recklessly choosing to "bury his head in the sand." The statement added: "With the world watching, President Trump and [EPA] administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come."

The quote was misattributed to Sen. Shelley Moore Capito (R-W.Va.), a supporter of coal mining who attended Trump's signing of the order. The statement was actually from Sen. Tom Carper (D-Del.), the top Democrat on the Environment and Public Works Committee and a critic

of Trump's environmental policies. A Carper spokesman quipped to The Hill after the press release that he was "happy to lend his words to a good cause."

The EPA attributed the mistake to human error. An internal draft was mistakenly sent out with the Carper quotes, the agency said in a statement. A corrected press release was sent later Thursday morning with Capito's quotes, which said in part that President Barack Obama's Clean Power Plan "would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact."

EPA spokesman John Konkus apologized for the error, adding that officials "are making sure that our process is improved as we build our team."

Another disconnect between the Trump administration and the EPA was apparent Wednesday when agency scientist Michael Kravitz criticized his boss Scott Pruitt and what's happening to the agency charged with protecting the environment in a letter to the editor of The New York Times.

"I am very saddened by what I see these days under an EPA administrator whose role it is to dismantle the agency that he leads," wrote Kravitz. "Our president comes to the EPA to sign an executive order withdrawing the Clean Power Plan and other environmental policies, and the audience applauds."

"I hope the nightmare ends soon."

Pruitt on Wednesday rejected a petition from environmental groups to ban the insecticide chlorpyrifos on crops, despite concerns by scientists in Pruitt's own agency about potentially serious health risks from chlorpyrifos in water and crop residue.

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E&E News

<http://www.eenews.net/eedaily/2017/03/31/stories/1060052388>

EPA cuts, riders complicate spending talks

By Geof Koss and George Cahlink 3/31/17

Congress is closing in on a final fiscal 2017 spending agreement that would provide fresh dollars for the Energy Department. But disputes over funding levels and policy riders could keep U.S. EPA and the Interior Department from getting new money.

House and Senate appropriators in both parties said they are making headway on an agreement to keep the federal government open when current funding expires at the end of next month. They handed off largely bipartisan deals for most, but not all, of the fiscal 2017 spending bills this week to leaders who will try to assemble a broad, omnibus spending package.

Lawmakers expect to unveil their final fiscal 2017 spending legislation the week of April 24, when they return from a two-week recess that begins April 7. They will then have to pass that deal quickly — or another temporary funding measure — to avoid a government shutdown when current dollars lapse on April 28.

Senate Interior and Environment Appropriations Subcommittee Chairwoman Lisa Murkowski (R-Alaska) said yesterday that she and ranking member Tom Udall (D-N.M.) had submitted their contribution to what appropriators hope will be an omnibus instead of another continuing resolution.

Murkowski said appropriators "were absolutely not working toward a CR" but acknowledged "outstanding issues" remained on the Interior and environment bill. "I feel pretty good with where our subcommittee is right now with Interior. We've got a tough portfolio," she added.

Udall seemed more pessimistic, saying, "There's still a lot undecided at this point." He said he was concerned that the current proposal would prevent EPA from "doing its job."

Indeed, the chief difference is over where to set funding levels for EPA with House and Senate appropriators sticking to the spending proposed in bills they moved earlier this year. The House-backed measure would cut EPA funding by \$164 million to \$7.98 billion, while the Senate bill would provide a more modest cut to \$8.1 billion.

A handful of potential policy riders are also unresolved.

The House bill contains policy provisions that would block several environmental rules and take aim at climate policy opposed by Democrats and some moderate Republicans, while the Senate version left out the most contentious of those add-ons.

Rep. Betty McCollum (D-Minn.), the ranking member on the House Interior and Environment Appropriations Subcommittee, hinted at some of those differences as well as what's at stake in negotiations.

"If Republicans want Democrats to vote for this bill, we expect it to sufficiently fund environmental protections without any poison-pill riders. I hope Republicans will work with us to protect American families and communities rather than shut down the federal government," she said.

The outlook appears better for the energy-water development bill, which funds the Energy Department and the U.S. Army Corps of Engineers.

"Ours is pretty much done," Rep. Mike Simpson (R-Idaho) said this week. He said California water issues and provisions addressing the proposed nuclear waste repository at Yucca Mountain, Nev., were sticking points that leaders would have to resolve.

The Trump administration is seeking \$120 million in fiscal 2018 to restart the licensing process for Yucca Mountain, as well as to launch an interim storage program that would house spent nuclear fuel from nuclear power plants until a permanent repository is ready. However, there's been talk of trying to address the nuclear waste standoff in fiscal 2017.

Simpson put the odds at 75 percent that fresh funding for energy and water programs would come in the package.

Sen. Dianne Feinstein of California, the top Democrat on the Energy and Water Development Appropriations Subcommittee, said she and Chairman Lamar Alexander (R-Tenn.) had come to a tentative agreement but acknowledged "there are a few outstanding issues."

The Interior and environment and the Labor, Health and Human Services, and Education spending bills are the only two of the 11 remaining measures for fiscal 2017 that did not send largely complete bipartisan deals to leaders. Senior leaders will now determine whether differences on those measures can be bridged or if agencies covered by those two bills will get level funding for the rest of fiscal 2017.

Federal agencies have been operating under a stopgap CR since the start of the fiscal year on Oct. 1 that funds them at fiscal 2016 levels with few exceptions. Agencies not getting new dollars in the pending legislation would spend the last five months of the year with dollars still frozen at last year's levels.

It's not yet clear if the package will move first in the House or Senate. The House-passed defense spending bill has been sent to the Senate and could have an agreement for the rest of government funding tacked onto it.

Senate Majority Whip John Cornyn (R-Texas) said yesterday he was "more optimistic" after seeing bipartisan deals forged by appropriators that there would be fresh funding for most of government.

Like House Speaker Paul Ryan (R-Wis.), the Texan vowed there would not be a government shutdown.

But House Minority Leader Nancy Pelosi (D-Calif.) did not rule out Congress ending up passing a CR rather than new spending given "about 200 unresolved differences" and a push by the White House to have border wall funding added to the package.

"We want legislation that meets the needs of the American people and does not have the poisonous riders in it," she added.

Meanwhile, senators this week continued to push back against the Trump administration's fiscal 2018 budget as well.

"The 'Budget Blueprint to Make America Great Again' is misnamed," wrote 19 Senate Democrats this week in a letter to President Trump that objected to the proposal to slash funding at DOE and eliminate multiple programs at the department. "Instead, it would kill jobs and weaken America's competitiveness."

Also, 10 senators from six states Wednesday sent their own bipartisan letter to Trump opposing his budget proposal to kill off the Appalachian Regional Commission.

"Eliminating this essential program would have devastating consequences for the more than 25 million Americans that live in the Appalachian Region today, who need it now more than ever," wrote Sens. Shelley Moore Capito (R-W.Va.), Joe Manchin (D-W.Va.) and others.

E&E News

<http://www.eenews.net/climatewire/2017/03/31/stories/1060052407>

Pruitt reiterates states don't have to make plans

By Emily Holden 3/31/17

States have been under no obligation to comply with U.S. EPA's Clean Power Plan for more than a year, but Administrator Scott Pruitt didn't leave any room for doubt with guidance he sent to governors yesterday.

In a letter to state leaders, Pruitt reminded them of the February 2016 Supreme Court order staying implementation of the power-sector climate standards and specified that they "have no obligation to spend resources to comply with a Rule that has been stayed."

He added that "the days of coercive federalism are over" and that he looks forward to working with governors, state experts and local communities to "develop a path forward to improve our environment and bolster the economy in a manner that is respectful of and consistent with the rule of law."

The letter comes on the heels of an executive order that President Trump signed Tuesday to reverse the Clean Power Plan. Most states since the stay had shelved their work on specific plans, though some states that supported the rule had initially said they would keep working on plans in the hope that they would have a head start if the courts upheld the Clean Power Plan and let it begin in 2022 or soon thereafter.

Pruitt suggested that if the courts did uphold the rule, states would get extra time to meet requirements.

"To the extent that any deadlines become relevant in the future, case law and practice of the EPA supports the application of day-to-day tolling," he said.

But he also is set to begin a new rulemaking process to undo the Clean Power Plan.

Specific planning efforts for the rule trailed off over the last year, although some states continued to talk broadly about carbon-cutting efforts. Only Minnesota was still holding regular public meetings on the regulation. The Minnesota Pollution Control Agency meets with stakeholders today to discuss what the group has learned and where the state might go from here.

Pruitt's letter is mostly symbolic, as states already were not under any requirement to work on plans to cut carbon emissions. It could, however, complicate political debates in some states.

The governor in Virginia, for example, is taking heat from some Democrats, the former Republican attorney general and consumer advocates for not working to reverse a rate freeze that was enacted because of a debate over the Clean Power Plan (Climatewire, Feb. 24).

Utilities had argued that electric bills could rise under the Clean Power Plan. So the General Assembly passed legislation to prevent state regulators from reviewing rates. That means companies can't charge customers more, but it also means they can't charge them less. Instead, they have been able to keep extra profits they might otherwise have had to pass on to ratepayers.

Gov. Terry McAuliffe (D) has said the state should wait until the Clean Power Plan is off the books before repealing the measure. That could take years.

In addition to the letter, EPA yesterday morning also sent out and then corrected an error in a press release quoting various conservative lawmakers and industry groups praising the executive order (Greenwire, March 30). The Obama administration, in comparison, typically followed up its announcements with mostly favorable news clips or blog posts from agency leaders.

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Trump Nixed Social Cost of Carbon, But Courts May Play a Role

By Rachel Leven 3/31/17

President Donald Trump has told federal agencies to ignore an Obama-era metric intended to measure the economic impacts of climate change. The move could land the

agencies—eventually—in court.

Trump's executive order instead directs agencies to rely on guidance issued in 2003 during President George W. Bush's administration to assess the “social cost of carbon” in its regulations. Academics say the 2003 document doesn't contradict the Obama-era approach, even as the order highlighted certain considerations environmentalists have said could be used to inappropriately lower the number.

However, the move does leaves individual agencies on the hook to come up with their own estimates. And if those estimates aren't of high enough quality, the administration's actions could be legally overturned, attorneys said.

“This is not a smart move from the ability of the administration to carry out their program,” Richard Revesz, director of New York University School of Law's Institute for Policy Integrity, told Bloomberg BNA.

The social cost of carbon measures the impact a federal action will have on carbon emissions and projects those impacts into the future.

The metric has become an industry target because of how the estimate has been used to justify stringent regulations. Some industry representatives have said the number is inappropriately calculated or shouldn't be used at all, but courts have said these emissions must be assessed and that the Obama-era approach is reasonable.

The executive order that said the Obama-era approach to the social cost of carbon would no longer reflect federal policy also pulled back other climate policies from the last administration. The actions have been expected for months, as Trump railed against the policies on the campaign trail.

Obama Group Used Three Models

The social cost of carbon under the Obama administration represents long-term damages expected from a ton of carbon emissions in a given year. Carbon emissions are known to accelerate global warming, which leads to damages such as sea-level rise and increased and more severe wildfires.

The interagency working group that developed it under the Obama administration used three established social cost of carbon models and then averaged them. A ton of carbon emissions at a 3 percent average discount rate is worth \$36 in 2015, \$42 in 2020 and so on, they found.

However, the March 28 executive order said the Obama-era approach will no longer represent government policy. The working group—the Interagency Working Group on Social Cost of Greenhouse Gases—will also be disbanded. The administration urges compliance with a 2003 Office of Management and Budget guidance document—the Circular A-4.

“Effective immediately, when monetizing the value of changes in greenhouse gas emissions

resulting from regulations, including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates, agencies shall ensure, to the extent permitted by law, that any such estimates are consistent with the guidance contained in OMB Circular A-4 of September 17, 2003,” the order states.

The OMB document was “the longstanding practice of the federal government, prior to ... the previous administration putting out its own estimates,” a senior Trump administration official who spoke to reporters on condition of anonymity about Trump's executive order said.

The apparent upshot of the order is that individual agencies can and, according to the order, will continue to assess the value of carbon dioxide emission reductions or increases stemming from federal action. While the executive order discarded the Obama-era method, nothing in the Circular A-4 overtly conflicts with the now-sidelined approach, economists said.

“An agency could legitimately follow the executive order and come up with the same number,” Billy Pizer, a Duke University economics professor, told Bloomberg BNA. “It may be hard to imagine in this political environment ... but it certainly would be inconsistent with the executive order.”

Room for Legitimate Debate

Pizer told Bloomberg BNA that two factors highlighted in the order—discount rates and global or U.S. impacts—could be debated by reasonable people and, if changed, could lead to a significantly lower number than the Obama-era approach. Pizer said he supports the path the Obama-era group took.

One issue highlighted by the Trump administration is whether to consider the domestic or global impacts of greenhouse gas emissions affected by federal decisions.

Global impacts were considered under the interagency working group, partly in light of the impact that U.S. action can have on other countries to take their own mitigation actions that would circuitously benefit U.S. citizens, Pizer said. However, one could reasonably argue that U.S. regulatory policy is intended to protect U.S. citizens from harm, and therefore only direct domestic impacts should be considered, he said.

The other is the question of what discount rate to use: How much we should pay now for impacts of increased or reduced greenhouse gas emissions up to hundreds of years down the road? There are similarly reasonable arguments regarding why it is appropriate to use lower discount rate, Pizer said.

For example, the lower discount rate is considered the appropriate way to assess impacts for cost-benefit analyses, Pizer said. However, other parts of the cost-benefit analysis outside the social cost of carbon may not be executed in line with that theoretically appropriate approach and so there is an argument to calculate the social cost of carbon the same way as the rest of the cost-benefit approach, he said.

Where Debate Ends

Some have advocated for flipping the social cost of carbon's estimate more aggressively.

Nick Loris, an economist at the Heritage Foundation, said if this value has to be estimated, for example, the appropriate approach to quantifying the impact of reducing carbon emissions is to look at “the abated temperature increase,” rather than the broader climate impacts.

But many economists, including Pizer, stood by the Obama-era approach as the one that would yield the most realistic estimate of the impacts.

Michael Hanemann, director of Arizona State University's Center for Environmental Economics and Sustainability Policy, told Bloomberg BNA that—barring steps that would actually make the estimate higher—taking a broadly different approach to that of the working group would have the same value as “looking at chicken entrails.”

The Trump administration will have some legal restraints guiding what it can and can't do, legal scholars told Bloomberg BNA.

Rulings by the U.S. Court of Appeals for the Ninth Circuit in 2007 over fuel efficiency standards, and the U.S. Court of Appeals for the Seventh Circuit in 2016 over certain energy efficiency standards, say agencies have to consider the social cost of carbon and that the method the Obama administration developed to do so is reasonable, respectively, several academics and environmentalists said.

Dan Farber, Sho Sato Professor of Law at the University of California, Berkeley, pointed to a 2015 opinion written by now-deceased Justice Antonin Scalia in a case over the Environmental Protection Agency's mercury emissions limits for power plants. That opinion further bolsters the argument that agencies must take a holistic look at costs and benefits of its actions, he said.

However, not everyone agreed these rulings are bulletproof or affect federal actions equally.

Will Yeatman, a fellow at the free market-oriented Competitive Enterprise Institute, told Bloomberg BNA he believed these rulings could be overturned and said the Ninth Circuit decision applies specifically to analyses done under the National Environmental Policy Act.

Confidence on All Sides

Observers from all sides said the use of social cost of carbon and the numbers used by agencies could easily end up being vetted by the courts. Even if the administration includes a social cost of carbon estimate in its regulations, some may lack the resources to do a thorough analysis.

David Doniger, director of the Natural Resources Defense Council's Climate and Clean Air Program, expressed confidence that, were the social cost of carbon to be inappropriately lowered, “they're going to find their rules are legally defective just the same way the Bush administration's was in the last decade.” Yeatman was equally confident the Trump

administration could defeat those kinds of legal challenges by citing relevant academic literature, and could overturn the earlier Ninth Circuit ruling.

“The whole essence of the social cost of carbon is based on assumptions,” Yeatman said. “It wouldn't shock me if they re-did the social cost of carbon and it came out near zero.”

Others were skeptical the Trump administration would actually have each individual agency take a hard look at the social cost of carbon to assess it in rulemakings.

Noah Kaufman, a climate economist for the World Resources Institute's U.S. Climate Initiative, told Bloomberg BNA, “I worry more that this is just the first step toward directing agencies not to address the social cost of carbon at all.”

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http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241720&vname=dennotallissues&wsn=49945900

Power Plant Arguments Canceled as Trump EPA Seeks Lawsuit Pause

By Andrew Childers 3/31/17

A federal appellate court canceled upcoming arguments over the EPA's carbon dioxide limits for power plants after the Trump administration announced plans to review and possibly pull back the regulation (*North Dakota v. EPA*, D.C. Cir., No. 15-1381, 3/30/17).

States and utilities' challenges to the carbon dioxide performance standards for new power plants were scheduled to be argued April 17, but the U.S. Court of Appeals for the District of Columbia Circuit announced March 30 it would cancel that argument while it considers the administration's request to pause the lawsuits while it reconsiders the rule.

The administration's request comes after President Donald Trump signed an executive order March 28 directing the Environmental Protection Agency to reconsider the Obama administration's climate change regulations, particularly carbon dioxide limits on both new and existing power plants.

Challenges to the carbon dioxide standards for new power plants were scheduled to be heard by Judges Sri Srinivasan and Cornelia Pillard—both appointed by President Barack Obama—and Judge Karen LeCraft Henderson, a President George H.W. Bush appointee.

Last year a 10-judge panel for the D.C. Circuit heard a full day of argument over the Obama administration's carbon limits for existing power plants, known as the Clean Power Plan. The court has not yet issued its decision in that case, but the administration has requested that litigation be held in abeyance as well (*West Virginia v. EPA*, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Also March 30, EPA Administrator Scott Pruitt sent a letter to states telling them they have “no obligation to spend resources” to comply with the rule because it has been stayed by the Supreme Court.

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http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241696&vname=dennotallissues&wsn=49947200

House Bill on EPA Science Board Heads to the Senate

By Rachel Leven 3/31/17

A House-passed bill that would change the makeup of a board that offers scientific advice to the EPA may face better odds in the Senate than a previous version last session.

The EPA Science Advisory Board Reform Act of 2017 (H.R. 1431), sponsored by Rep. Frank Lucas (R-Okla.), passed on a 229-193 House vote March 30.

It is similar to one passed in the last Congress by a 236-181 margin and would put in place new qualifications for board members—including disqualifying scientists who have EPA grants or contracts as having a conflict of interest.

The measure also would require that “at least ten percent of the membership of the Board are from State, local, or tribal governments.”

Backers says the bill aims to make the board more independent and accessible for public comment. Opponents say it would block scientists with expertise from serving on the board, increase industry's influence and unnecessarily slow the board's activities.

The bill now heads to the Senate, where its predecessor in the last session of Congress—the EPA Science Advisory Board Reform Act of 2015 (H.R. 1029)—never received a hearing. A spokesman for the majority on the Senate Environment and Public Works Committee previously told Bloomberg BNA the committee is committed to the bill's stated goal of ensuring Environmental Protection Agency science is more open and transparent.

The American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation are among the legislation's key supporters. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The Congressional Budget Office estimates the bill, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, would cost less than \$500,000 annually for additional personnel and administrative expenditures. It would not affect direct spending or budget deficits, the office said in its March 27 cost estimate.

The House Science, Space and Technology Committee approved the bill March 9 by a 19-14 vote.

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http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241717&vname=dennotallissues&wsn=49946850

Trump to Decide on Climate Pact by Late May, Spicer Says

By Dean Scott 3/31/17

President Donald Trump will decide whether to keep the U.S. in the 2015 Paris climate pact by late May “if not sooner,” White House Press Secretary Sean Spicer said, in hopes of settling the issue before the president heads to the May 26-27 Group of Seven summit in Italy.

“We are currently reviewing issues related to the agreement and expect to have a decision by the time of the G-7 summit, late May-ish if not sooner,” Spicer told reporters March 30.

The comment came amid continued speculation over whether Trump intends to make good on his campaign vow to “cancel” U.S. participation in the Paris deal, the first truly global climate agreement, or keep the U.S. in the pact.

Trump began rolling back myriad Obama administration climate policies under a March 28 executive order—directing the Environmental Protection Agency to suspend, revise, or rescind its power plant carbon pollution limits—but has thus far put off a decision on U.S. participation in the Paris deal.

The Paris Agreement, the first to include climate actions by developed and developing nations alike, was reached after more than two decades of United Nations negotiations.

Trump, who has labeled climate change a hoax, has also argued that the Paris deal would hurt U.S. economic competitiveness.

President Barack Obama accepted the Paris deal using his executive authority to negotiate international agreements. Trump, as a result, can essentially undo U.S.

The Hill

<http://thehill.com/policy/energy-environment/326661-oklahoma-bar-association-investigating-ethics-complaint-against>

Oklahoma Bar Association investigating Pruitt over private email use

By Max Greenwood 3/31/17, 8:14AM

The Oklahoma Bar Association is investigating an ethics complaint alleging that Environmental Protection Agency Administrator Scott Pruitt misled a Senate committee about his use of a private email address during his tenure as Oklahoma attorney general.

The complaint was filed last week by the Center for Biological Diversity and University of Oklahoma law professor Kristen Van de Biezenbos. In it, they allege that Pruitt incorrectly told members of the Senate Environment and Public Works Committee that he never used a private email to conduct official business as Oklahoma's top law enforcement official.

The investigation was first reported by KSWO-TV in Oklahoma.

A public records lawsuit, however, found several instances in which Pruitt did, in fact, use a private email address for official business.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," the complaint reads.

By misrepresenting the facts, it said, Pruitt violated Oklahoma's rules of professional conduct.

Pruitt was confirmed by the Senate last month, though his nomination to the top EPA job was a subject of controversy for Democrats and environmental advocates, who pointed to Pruitt's reportedly antagonistic relationship with the environmental agency. During his tenure as Oklahoma attorney general, Pruitt sued the EPA more than a dozen times.

The Hill

<http://thehill.com/policy/energy-environment/326635-conservatives-fear-epa-chief-going-soft-on-climate-science>

Conservatives fear EPA chief going soft on climate science

By Timothy Cama, 3/31/17, 6:00AM

The head of the Environmental Protection Agency (EPA) is facing heavy pressure from conservatives to take on the science of climate change.

Undoing the 2009 endangerment finding — the Obama administration’s conclusion that greenhouse gases are a threat and can be regulated — would make it easier for EPA chief Scott Pruitt to reverse President Obama’s climate agenda.

That’s because it would remove the legal obligation under the Clean Air Act to regulate carbon dioxide, removing a key tool that environmentalists are counting on as they try to keep Obama’s policies like the Clean Power Plan in place.

The finding that greenhouse gases “endanger both the public health and the public welfare of current and future generations” is the lynchpin of climate policy under the Clean Air Act, and removing it could effectively gut many of EPA regulations.

But while Pruitt has expressed skepticism of the scientific consensus that greenhouse gases are the primary cause of climate change, repealing or changing the endangerment finding would be a significant lift, according to experts and supporters of climate policies, with the vast majority of scientific data working against Pruitt.

“The science is very clear. The endangerment finding is basically unquestioned throughout the scientific community and the legal community,” said Sen. [Jeff Merkley](#) (D-Ore.). “So I think it would be a very bizarre, unproductive and destructive thing to revisit that.”

President Trump’s executive order this week to start the process of rolling back nearly all of former Obama’s climate agenda did not ask the EPA to reconsider the endangerment finding.

Sources close to EPA leadership said that early drafts of the order would have instructed the department review the finding. But Pruitt successfully pushed against that.

Those sources claimed that Pruitt, the former attorney general of Oklahoma and a frequent litigant against the Obama administration, was concerned about his political future and didn’t want to be labeled anti-science.

“They’re looking for reasons to not do it because they don’t want a fight,” a person familiar with the deliberations said, referring to Pruitt and his allies.

Breitbart News columnist James Delingpole [wrote this week](#) that Pruitt should consider resigning if he won’t repeal the endangerment finding, saying that he “is more interested in building his political career than he is taking on the Green Blob.”

In addition, the conservative Competitive Enterprise Institute filed a petition last month formally asking the EPA to launch a review, saying, “since that finding was issued, evidence has continued to mount that directly contradicts it.”

The original push in the administration to strike down the endangerment finding came in part because Trump promised last year, in a questionnaire from the fossil fuel-backed American Energy Alliance (AEA), to review the finding if he were elected.

Apart from that, Trump frequently railed against Obama’s climate policies. He called climate change a “hoax” and promised to remove barriers to fossil fuel production and use.

Pruitt has walked a fine line on climate change science. He said at his Senate confirmation hearing in January that he believes the climate is changing, but that the extent to which human activity contributes to it, and what should be done about it, are “subject to continuing debate and dialogue, and well it should be.”

But on CNBC earlier this month, Pruitt said carbon dioxide is not the “primary contributor” to global warming, and said that Congress should have a say over what the United States does, if anything, about climate change.

The EPA’s endangerment finding came in response to the Supreme Court’s 2007 decision in *Massachusetts v. EPA*. The court ruled that greenhouse gases from cars are air pollutants, and said the EPA is obligated to decide whether their emissions rise to the level of requiring regulation.

The fact that Trump’s executive order didn’t mention the finding does not preclude future action on the matter.

The EPA did not return a request for comment on whether it plans to consider repealing the endangerment finding.

Republicans in Congress are split on Pruitt’s decision to forego action on the finding for the time being.

Sen. Lisa Murkowski (R-Alaska), chairwoman of the Energy and Natural Resources Committee, sponsored unsuccessful legislation to undo the finding shortly after it was issued, out of concern of the impact on fossil fuel industries like oil, which is important to Alaska’s economy.

But she said she is bothered by the Trump administration’s plans.

“It seems to me a rational, responsible approach, given what he has in front of him,” Murkowski said of Pruitt’s agenda. “So I’m not questioning why or if he has to go back to the endangerment finding.”

Rep. Kevin Cramer (R-N.D.), a close Trump ally who served last year as an adviser to his campaign on energy policy, said he doesn’t like the finding, but he understands the need to avoid

action for now.

“It’s a little bit like healthcare. If you let perfect be the enemy of good, you sometimes don’t get anything,” Cramer said, comparing it to the recent fight over repealing and replacing ObamaCare.

“And I think the endangerment finding just would have been such a heavy lift, because legally, to unwind it would have just been so onerous. That’s not to say we shouldn’t try or continue to try, over time. But it shouldn’t hold up these other, more immediate things,” he continued.

But Rep. Joe Barton (R-Texas), vice chairman of the Energy and Commerce Committee, said he’d like to see the administration take on climate science.

“They ought to really take a look at the endangerment finding that the Obama administration issued when they first got in office,” he said. “I think it’s very flawed and should be, at a minimum, revisited.”

Tom Pyle, president of AEA, agreed that the Trump administration should make it a priority.

“A lot of the hard work they’ll be doing over the next several years could easily be undone should another administration come in and have a significantly different perspective on the issue,” said Pyle, who led Trump’s transition team at the Energy Department.

Pyle said his group doesn’t necessarily think that greenhouse gases do not cause climate change. But Congress should decide the issue, and the Clean Air Act is not the right tool, he said.

“I think it only makes sense for the president and the administration to do these things,” Pyle said. “I don’t think the advice he’s been getting about putting it aside for now is sound.”

Forbes

<https://www.forbes.com/sites/emilywillingham/2017/03/31/what-we-know-about-chlorpyrifos-the-pesticide-the-epa-thinks-is-bad-but-wont-ban/#46682f33181f>

What We Know About Chlorpyrifos, The Pesticide The EPA Thinks Is Bad But Won't Ban

By Emily Willingham 3/31/17 7:47 AM

The US Environmental Protection Agency (EPA) this week reversed course on a recommendation to ban the widely used pesticide chlorpyrifos (trade name Lorsban) and denied a petition to arrest use of the pesticide on crops. Confusingly, the agency had recommended in 2015 that the chemical, already banned for application in homes in 2001, be banned for use on crops, as well. That proposal has now been spirited away under the anti-regulatory guidance of the EPA's new administrator, Trump appointee Scott Pruitt. No doubt, more such looking away

from the evidence lies in our nation's future.

And the evidence is difficult to avoid. Indeed, it's remarkably easy to find, even on the EPA's own website.

The original 2001 ban was put into place because of findings suggesting genuine neurotoxic threat with use of the pesticide in homes. Similar findings support the now-not-happening crops ban. The pesticide is undoubtedly effective and does what it's intended to do: destroy pests that try to destroy crops. But like so many such chemicals, its success for us can also be a threat to us.

Many of these chemicals work by interrupting or damaging the nervous or reproductive systems of their targets. Even though we are clearly not aphids and these and other insects are among our most distant animal relations, the pathways of neural and reproductive development we share have more in common than you might think. And that means what disrupts them holds potential to disrupt us.

Walking the line between "benefit for humanity because it feeds all of us" and "harmful to humanity because of negative health effects" has often been a balancing act for those using these agricultural tools. No farming approach is immune to these risks, not even organically grown crops, which still are exposed to pesticides.

But some pesticides are clearly more harmful than others. The question is where chlorpyrifos lands on that spectrum.

To hear those who work with it tell their story, it's fine: You just send the kids inside before you apply it. But the thing is, people who work directly with a pesticide aren't the people examining its effects on a larger scale, across a definitively exposed population. Turns out, those populations exist thanks to the 2001 ban on chlorpyrifos use in homes. Researchers had access to a group of children whose mothers were exposed during pregnancy before the ban and could compare them to those who were not. Their findings suggest a link between the pesticide and various adverse developmental outcomes.

Take an example from women living in New York City. Before the ban, the air they breathed indoors was almost 100% positive for the chemical, and up to 70% of their babies had the pesticide in plasma samples from their umbilical cords. A Columbia study found that children subject to this exposure had deficits in IQ and working memory. That same group compared exposed children to children unexposed (born after the ban) and found significant motor and other developmental delays in the high-exposure group.

Yet another study from this group found that this evidence of harm was stronger for boys than for girls, in keeping with many indications of differences in neural resilience between the sexes. Again, this effect was linked to reduced scores on working memory, especially among exposed boys.

The litany of effects or correlations between chlorpyrifos and adverse developmental outcomes continues. A sampling:

An association with reduced birthweight among those with the highest in utero exposures.

A link between prenatal exposure and tremor in childhood. This finding is relevant because the pesticide acts on an enzyme involved in motor signaling.

Effects for children living in rural areas on their intellectual development following prenatal exposure, based on levels of a metabolite in maternal urine.

From the Columbia group, findings of structural changes in the developing brain, associated with exposure to the pesticide.

As far back as the 1990s, evidence of an effect on the sensory system following exposure.

The EPA has its own human health risk assessment as it relates to chlorpyrifos. From their website:

Based on current labeled uses, the revised analysis indicates that expected residues of chlorpyrifos on food crops exceed the safety standard under the Federal Food, Drug, and Cosmetic Act (FFDCA). In addition, the majority of estimated drinking water exposure from currently registered uses, including water exposure from non-food uses, continues to exceed safe levels, even taking into account more refined drinking water exposure. This assessment also shows risks to workers who mix, load and apply chlorpyrifos pesticide products.

Their complete risk assessment for this pesticide is linked here. Among their conclusions:

In summary, the EPA's assessment is that the CCCEH study, with supporting results from the other 2 U.S. cohort studies and the seven additional epidemiological studies reviewed in 2015, provides sufficient evidence that there are neurodevelopmental effects occurring at chlorpyrifos exposure levels below that required for AChE inhibition.

Of course, human risk isn't the only consideration. The EPA has also evaluated the ecological risks. In the agency's executive summary from that evaluation (Word doc), they provide a table of species that the chemical is expected to affect adversely. The agency has concluded that chlorpyrifos is likely to adversely affect 1778 species, including plants, birds, fish, mammals, and nontargeted insects.

The current status of the chlorpyrifos situation is that the EPA has, under a court-ordered deadline, denied a petition from the National Resources Defense Counsel and Pesticide Action Network North America to revoke all pesticide tolerances (maximum food levels) and all registrations for the pesticide. Objections to this decision must be registered within 60 days of the date of the official filing with the Federal Register. The order denying the petition notes that the action:

may also be of interest to agricultural producers, food manufacturers, or pesticide manufacturers.

No surprise there.

The agency also says that it will:

continue to review the science addressing neurodevelopmental effects of chlorpyrifos as part of the ongoing registration review and complete our assessment by the statutory deadline of October 1, 2022.

Five years is a long time and no doubt a lot of money for those with a vested interest in keeping the chlorpyrifos faucet (chlorpyrifaucet?) running. The question then still remains: What harm will this chemical do to the developing brains of our nation's children and the ecosystems around our nation's crops in the meantime? As its own website shows, the EPA had already made its decision, or at least it had until Pruitt came on board.

Huffington Post

http://www.huffingtonpost.com/entry/pruitt-bar-association-ethics_us_58ddd190e4b05eae031eaaa2

Oklahoma Bar Association Probing Ethics Complaint Against Scott Pruitt

By Mary Papenfuss 3/31/17, 5:23AM

The Oklahoma Bar Association has launched an investigation into an ethics complaint filed against Environmental Protection Agency chief Scott Pruitt.

The complaint accuses Pruitt of breaching Oklahoma Rules of Professional Conduct by allegedly misrepresenting the facts when he told a Senate committee at his confirmation hearing that he did not use a personal email address to conduct business while attorney general of Oklahoma, reported KSWO-TV.

Documents that the attorney general's office released through an Open Records Act lawsuit in Oklahoma appear to contradict sworn testimony from Pruitt, the state's former attorney general.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," states the complaint, filed last week by the nonprofit Center for Biological Diversity, which works to protect endangered species, and University of Oklahoma law professor Kristen van de Biezenbos.

Emails released as part of the lawsuit include a message from an executive of the American Fuel and Petrochemical Manufacturers association to Pruitt's me.com address, asking him to use his position as the state's attorney general to help roll back renewable fuel standards set by the Obama administration, according to a statement from the Center for Biological Diversity.

"We have ... opened this matter for investigation," said a letter from the bar to van de Biezenbos dated Tuesday. "After the matter has been fully investigated, your grievance and the response of [Pruitt's] attorney will be presented to the Professional Responsibility Commission."

Attorney Amy Atwood from the Center for Biological Diversity said in a statement that she was "very pleased" about the investigation. "Lying to Congress is a serious ethical breach, and it doesn't help that Pruitt's use of private emails reflect potential collusion with the very oil and gas industry he's now supposed to be regulating," she said.

Pruitt has not commented on the investigation nor on the complaint.

He was narrowly confirmed as EPA head last month despite Democrats' calls to delay the vote until the release of new documents detailing his relationship with oil and gas companies while he was attorney general.

A group of law professors last month filed a "professional misconduct" complaint against President Donald Trump's chief counsel Kellyanne Conway with the Washington, D.C., Office of Disciplinary Counsel of the Board of Professional Responsibility, which addresses complaints about members of the local bar. They argued that Conway's several lies (including linking immigrants to a fictitious "Bowling Green massacre") was bringing "shame upon the legal profession."

Huffington Post

http://www.huffingtonpost.com/entry/trump-executive-order-natural-disasters_us_58dbea6ee4b0cb23e65da328

Here's How Trump's Climate change Order Will Make Natural Disasters Harder To Face

By Lydia O'Connor 3/31/17, 5:47AM

President [Donald Trump](#)'s executive order on climate change threatens state and local governments' ability to prepare for and cope with extreme weather events, climate and planning experts warn.

The executive order, issued Tuesday, goes beyond undoing Obama-era commitments to clean energy. It revokes an Obama-era executive order aimed at planning for natural disasters [linked to climate change](#), including sea-level rise, droughts, hurricanes, wildfires and extreme heat.

That now-revoked 2013 executive order, entitled "[Preparing the United States for the Impacts of Climate Change](#)," charged federal agencies with helping states and localities improve resilience to natural disasters and established a [task force](#) of state, local and tribal leaders dedicated to determining needs.

Trump's action could sever those governments from important federal data and tools to help them prepare for extreme weather, experts said.

A burned out Porsche is seen near a partially burned home in the Santa Cruz Mountains near Loma Prieta, California on September 27, 2016. Climate experts say wildfires are likely to increase as the planet warms.

"It's almost as if we think if we don't have the information, it won't happen," said [Rachel Cleetus](#), a lead economist and climate policy manager with the Union of Concerned Scientists. "But that's not true. We can bury our heads in the sand, but the facts are still the facts. All we're doing is preventing people from being able to take protective measures ahead of time."

The task force established by the 2013 executive order has played an important role guiding cities and states in climate-smart planning.

In 2014, the task force released [recommendations](#) for how federal agencies can aid the rest of the country, and helped develop the [Climate Resilience Toolkit](#), a continually updated online database with climate data and projections, case studies on responses to past disasters, and directories of experts and funding opportunities. The toolkit was assembled with climate information gathered by federal agencies.

The toolkit has helped places like low-lying Tybee Island, Georgia, prepare for the impacts of sea-level rise, which can contribute to more frequent and widespread flooding. Last year, the island's city council approved plans to improve the only road to the island, retrofit stormwater drainage systems and stabilize shorelines to block high water.

Cleetus said it's unclear what revoking the Obama order will mean in practice. Nor is it certain how far the Trump administration will go to halt climate-preparedness efforts at federal agencies, or to curb access to resources like the Climate Resilience Toolkit. But Trump's order doesn't bode well.

"It really goes after some of the core missions of these agencies," Cleetus said, pointing to the Federal Emergency Management Agency's help with coastal flooding and wildfires as an example. "It's terrifying to see a government that actually wants to go backwards when there's so much work to do," she added.

Revoking the Obama executive order may be part of a twofold assault on some federal agencies. Those that help with climate change response and resilience efforts, such as FEMA, the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, all are threatened with steep cuts under Trump's budget proposal.

"It's not some theoretical threat in the future," Cleetus said. "We're already experiencing these impacts, so it's a real dereliction of responsibility to say they essentially don't care, that they're not going to help."

Streets damaged during Hurricane Sandy are seen in Ortley Beach, New Jersey, in this November 10, 2012. One year later, President Obama released an executive order on planning for such disasters.

The possible effects of climate change have already been widespread: Years of severe drought in California and other Western states followed by a record-wet winter, a series of "1-in-1,000-year" floods last summer, and a decade of record-low Arctic sea ice.

Trump's order "sets everyone up for a lot more of these disasters," warned Kevin Trenberth, a distinguished senior scientist at the National Center for Atmospheric Research.

Some big cities may be spared. Steven Cohen, executive director of Columbia University's Earth Institute and a former EPA official, said he expects efforts like New York City's nearly \$20 billion plan to fortify the city will move forward.

"This will continue without the federal government, but would benefit from federal infrastructure funding and additional federal funding on the science and engineering of climate change and climate science," Cohen said. "Even though removing these federal policies is not helpful, real estate developers, insurance companies, power companies and many other organizations are assessing the financial risks of climate change and factoring it into their decision making."

Trump's action could be especially bad news for smaller communities lacking the resources to collect their own data, said climatologist Michael Mann, director of the Earth System Science Center at Pennsylvania State University.

"The regions with those who are least well off, who have the least adaptive capacity and the least resilience ... rural regions and the South," are most likely to suffer, Mann said. "Many of the very people who voted for Trump are being directly hurt by his policies."

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Washington Examiner

<http://www.washingtonexaminer.com/epas-pruitt-to-governors-the-days-of-coercive-federalism-are-over/article/2618959>

EPA's Pruitt to governors: 'The days of coercive federalism are over'

By John Siciliano 3/30/17 7:30 PM

Environmental Protection Agency Administrator Scott Pruitt assured states on Thursday that they do not have to comply with any part of the Obama-era climate regulations for existing power plants, known as the Clean Power Plan.

"The days of coercive federalism are over," Pruitt declared in a letter sent to state governors. "Accordingly, I look forward to working with you, your state experts and local communities as we develop a path forward to improve our environment and bolster the economy in a manner that is respectful of and consistent with the rule of law."

The letter was sent in fulfilling one of EPA's obligations under the "Energy Independence Executive Order" that President Trump signed Tuesday.

Pruitt emphasized in the letter that the Supreme Court halted the regulation more than a year ago and that states "have no obligation to spend resources to comply with a rule that has been stayed by the Supreme Court."

The Justice Department on Wednesday asked the D.C. Circuit Court of Appeals to suspend its review of the Clean Power Plan as the EPA conducts its own review of the regulation.

If the appeals court upholds the regulation, although even proponents don't completely believe it will survive entirely, the Supreme Court halt would still stay in place. And the EPA and the Trump Justice Department will have to take their fight over the regulation to the high court.

Governors in California, Washington and Oregon have said they will intensify their own efforts to reduce greenhouse gas emissions. Many scientists blame the emissions from the burning of fossil fuels for causing the Earth's temperature to rise, resulting in catastrophic sea-level rise, ocean acidification and more severe storms.

The U.S. Conference of Mayors issued a statement Wednesday night opposing Trump's executive order and the rollback of the Clean Power Plan.

"The U.S. Conference of Mayors supports the Clean Power Plan as an essential next step to address and lower greenhouse gas emissions as part of our nation's responsibility to address global warming," said Tom Cochran, CEO and executive director of the mayors organization. "The U.S. utility sector must be part of the solution and the [power plan] is a framework to ensure necessary reductions from this sector."

He also said that the mayors stand behind the 2015 Paris climate change accord. Trump has not decided if he will withdraw from the non-binding United Nations' agreement.

The White House said Thursday that a decision is expected to come in May. The climate agreement is expected to come up in talks on April 6-7, when Trump hosts Chinese President Xi Jinping at his Mar-a-Lago retreat in Florida.

AP

http://hosted.ap.org/dynamic/stories/U/US_ETHICS_COMPLAINT_PRUITT?SITE=AP&SECTION=HOME&

Oklahoma Bar Association opens investigation of ex-AG Pruitt

By Tim Talley 3/30/17 8:36 PM

OKLAHOMA CITY (AP) -- The Oklahoma Bar Association has opened an investigation into an ethics complaint against former state Attorney General Scott Pruitt, now administrator of the Environmental Protection Agency, according to a letter from the association's general counsel.

The complaint, filed by the Center for Biological Diversity, a nonprofit organization that works to protect endangered species, and associate professor Kristen van de Biezenbos of the University of Oklahoma College of Law, says Pruitt may have violated the Oklahoma Rules of Professional Conduct when he told a U.S. Senate committee at his confirmation hearings in January that he only used his attorney general's email address to conduct official business.

The complaint, dated March 21, says documents released by the attorney general's office through an Open Records Act lawsuit in Oklahoma seem to contradict Pruitt's sworn testimony and indicate Pruitt also used a personal email address to conduct official business.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," the complaint states.

Emails and other documents released by the attorney general's office indicate Pruitt coordinated closely with fossil-fuel companies and special interest groups who worked to undermine federal efforts to curb planet-warming carbon emissions.

Democrats on the U.S. Senate committee that held the confirmation hearings have criticized Pruitt's close ties to the oil and gas industry. As Oklahoma's attorney general, Pruitt frequently sued the agency he now leads, including filing a multistate lawsuit against the EPA opposing the Obama administration's plan to limit planet-warming carbon emissions from coal-fired power plants.

The Oklahoma Bar Association opened an investigation on Tuesday, according to a letter to van de Biezenbos from General Counsel Gina Hendryx. Among other things, Bar Association rules state "it is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation," according to the complaint.

On Thursday, neither the EPA nor Pruitt immediately responded to emails and phone calls seeking comment about the complaint.

Amy Atwood, an attorney for the Center for Biological Diversity who is based in Portland, Oregon, said the organization wants to know whether Pruitt misrepresented the truth during his Senate testimony, which would be in violation of Bar Association guidelines.

"That's one of the most important ethical rules that applies to lawyers," Atwood said. "I hope the investigation will help us all understand why Pruitt was so cagey about his communications with fossil-fuel interests."

AP

http://hosted.ap.org/dynamic/stories/U/US_EPA_MISQUOTE?SITE=AP&SECTION=HOME&TEMPLATE=D

EPA corrects media release misquoting GOP senator

3/30/17 5:05 PM

WASHINGTON (AP) -- The Environmental Protection Agency has corrected a media release falsely quoting a Republican senator as criticizing President Donald Trump over his denial of man-made climate change.

The media release Thursday was supposed to be a roundup of statements from officials supporting Trump's executive order seeking to eliminate Obama-era restrictions on carbon emissions from coal-fired power plants.

Sen. Shelley Moore Capito of West Virginia was misquoted as saying Trump has chosen to "recklessly bury his head in the sand" about the "clear science" showing the Earth is warming. The release also misspelled the first name of the GOP senator, a staunch Trump booster whose home state is heavily dependent on coal mining.

The quote was actually from Sen. Tom Carper, a Delaware Democrat.

EPA spokesman John Konkus apologized for the mistake.

Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/kreutzer-to-leave-epa-in-latest-agency-departure-085733>

Kreutzer to leave EPA in latest agency departure

By Andrew Restuccia and Alex Isenstadt 3/30/17, 5:44PM

David Kreutzer, a special adviser to EPA Administrator Scott Pruitt, is leaving the agency on Friday and hopes to rejoin the Heritage Foundation, marking the second departure of a political appointee this month.

Kreutzer told POLITICO he is in negotiations to accept a job at Heritage working on "productivity and economic growth" with an emphasis on labor and trade.

"Of course, you can't talk about productivity and economic growth with talking about energy. So, I will still be somewhat involved in that arena," he said. Kreutzer spent nearly a decade at the conservative think tank before joining the Trump transition team after the election and then EPA.

Kreutzer's anticipated departure comes two weeks after another EPA political appointee, David Schnare, resigned, saying he was bothered by disloyalty to President Donald Trump at the agency among both political appointees and career employees.

Kreutzer said his decision to leave had nothing to do with the reported tension at the agency.

Schnare and Kreutzer were both members of Trump's "beachhead" team, a group of temporary political appointees tasked with helping to run government agencies while the administration gets its nominees in place.

POLITICO reported earlier this week on tension at EPA, including clashes between Pruitt's chief of staff, Ryan Jackson, and Don Benton, the agency's White House-assigned senior adviser. Conservatives have also lashed out at Pruitt for arguing against including language revoking the agency's 2009 "endangerment finding" in an executive order Trump signed this week.

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Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/petition-sets-up-showdown-on-endangerment-finding-085738>

Petition sets up showdown on endangerment finding

By Alex Guillen 3/30/17 7:40 PM

A petition asking EPA to revoke its 2009 greenhouse gas endangerment finding has set the agency on a path toward a conflict with conservative groups that Administrator Scott Pruitt has sought to avoid.

The petition, filed last month by the conservative Competitive Enterprise Institute and released to POLITICO today, argues that since EPA declared that carbon dioxide and other greenhouse gases pose a threat to public health and welfare, "evidence has continued to mount that directly contradicts it." The 2009 endangerment finding paved the way for the Obama administration to regulate those emissions from cars, power plants and other sources.

CEI's petition cites an alleged pause in global warming since 1998, argues that warming falls

within the Earth's historical temperature fluctuations, and argues that the atmosphere is less sensitive to CO2 buildup than previously predicted in warming models.

The vast majority of climate scientists say those arguments are not borne out by the data. They argue that research shows the “pause” never really happened, note that the rapidity of global temperature changes is unparalleled in the historical record, and say warming has outpaced most models’ predictions.

Pruitt personally lobbied to drop language from President Donald Trump’s executive order this week calling for a review of the endangerment finding. While groups like CEI and The Heritage Foundation continue to press for a review, many legal observers note that the overwhelming body of evidence on climate change means any such effort would be both difficult and highly vulnerable to a court challenge.

WHAT'S NEXT: EPA must respond to the petition within a reasonable time frame, but there is no specific deadline. The agency may deny CEI's request, cementing the endangerment finding and EPA's obligation to regulate carbon emissions. Or it could launch a new rulemaking to revise or rescind the finding in response to the petition.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/30/a-second-climate-change-skeptic-is-leaving-the-epa-and-will-return-to-heritage/?utm_term=.7ebc3ceaa53e

A second climate-change skeptic is leaving the EPA and will return to Heritage

By Steven Mufson, Chris Mooney and Juliet Ellperin 3/30/17, 10:06PM

A conservative economist who has written that “no consensus exists that man-made emissions are the primary driver of global warming” has resigned from the Environmental Protection Agency, according to multiple people notified of the move Thursday.

David Kreutzer, who also served on the president-elect’s “landing team” for the EPA, is returning to the conservative Heritage Foundation. Kreutzer, formerly a fellow at Heritage, left it for a permanent job at the EPA focused on economic policy. According to multiple officials there, he sent an email this week to colleagues informing them that Friday would be his last day.

Kreutzer is the second member of President Trump’s environmental team to leave the agency in recent weeks. David Schnare, a conservative who had worked at the free-market Energy and Environmental Legal Institute before joining the Trump administration, departed two weeks ago.

Both were vocal critics of the Obama administration and advocated lifting federal restrictions on activities in the energy industry as well as elsewhere in the private sector.

An EPA spokeswoman declined to comment Thursday, noting that the agency does not comment on personnel matters. A Heritage spokesman said the same. Kreutzer did not respond to requests for comment by email and phone.

Top aides to EPA Administrator Scott Pruitt lobbied Kreutzer to stay, according to an individual familiar with the discussions who spoke on the condition of anonymity to talk about personnel decisions.

Working within the EPA would have provided Kreutzer with a prime platform to advance his arguments that the science behind climate change is not sufficiently robust to support stringent federal limits on greenhouse gases — just the sort of regulations that the agency has begun to reverse under Pruitt.

Kreutzer, an economist who previously served as the mayor of Dayton, Va., has pressed for recalculating the “social cost of carbon,” a metric that the Obama administration had used to assess the negative impacts of climate change. Kreutzer advocated for using a higher “discount rate” that would lower the current value of benefits or costs to take place far into the future. In short, the change would make it harder to justify action to reduce greenhouse-gas emissions.

Some administration backers, such as Thomas J. Pyle, who headed the Trump transition team for the Energy Department, want to abolish it altogether because it can vary so dramatically based on the discount rate an analyst uses.

“At the end of the day, the social cost of carbon is an arbitrary metric that has no place in federal rulemaking,” said Pyle, who heads the Institute for Energy Research.

Kreutzer played an important role in shaping and writing the executive order on energy policy that Trump issued Tuesday. The directive dismantled a White House working group on the social cost of carbon and rescinded a variety of Obama-era technical documents on the matter. It said

that “when monetizing the value of changes in greenhouse gas emissions resulting from regulations,” agencies should rely on a 2003 guidance that the Office of Management and Budget issued during the George W. Bush administration.

That reference represented a big victory for Kreutzer. The 2003 OMB guidance instructed agencies to calculate the future costs of climate change using 3 percent and 7 percent discount rates. The lower rate makes immediate climate action more compelling and worthwhile; the 7 percent rate minimizes the benefits of taking climate action now.

Other economists and budgeting experts say that the government should use a single rate and that 7 percent is much too high given the nature of future damages as well as economic factors.

University of Chicago economics professor Michael Greenstone, who helped develop the social cost of carbon for the previous administration, said in an email that the 7 percent figure was “just plain outdated” because global interest rates had dropped so much since 2003, and that because “climate change could prove to be highly disruptive,” financial markets would normally dictate a lower rate.

Cass Sunstein, a Harvard Law School professor who was administrator of OMB’s Office of Information and Regulatory Affairs during the Obama administration, wrote in a column for Bloomberg News, “In the intergenerational context, there are compelling technical as well as ethical reasons to choose a relatively low rate, so as to avoid treating our children and grandchildren as if they are worthless.

He added that “use of a 7 percent rate would be pretty ridiculous — and should be struck down, in court, as arbitrary.”

Washington Post

https://www.washingtonpost.com/news/capital-weather-gang/wp/2017/03/30/the-networks-all-but-ignored-climate-change-last-year-thats-bad-news-for-science/?utm_term=.9594d8b6418c

The networks all but ignored climate change last year. That’s bad news for science.

By Angela Fritz 3/30/17, 4:53PM

It's not that there isn't enough climate change news to cover. 2015 was the hottest year on record at that point, the Paris agreement was signed by dozens of nations, and California was in its worst drought in perhaps millennia. But if you get your news from the networks, there's a good chance you didn't know any of this was going on.

Stories about climate change on network news — ABC, NBC, CBS and Fox (the network, not Fox News) — dropped 66 percent, according to [research by Media Matters](#).

If you break it down into actual time spent, network news is devoting a shockingly small number of minutes per year on climate change. It's shocking because, as a recent Gallup poll shows, a majority of Americans are crossing the divide between those concerned about climate change and those who think it's baloney.

In 2015, network news — Sunday shows and evening news — spent 146 minutes on the topic of climate change. In 2016, it was 50 minutes.

Network news devoted 50 minutes to climate change in 2016

By its own description, Media Matters is a “501(c)(3) progressive research and information center dedicated to comprehensively monitoring, analyzing, and correcting conservative misinformation in the U.S. media.” It's a media fact-checking organization. Most fact-checkers focus on politicians. Media Matters analyzes statements and coverage of the media itself.

It does this because what the media choose to cover is important. In fact, in 1927, the Federal Radio Commission (later the FCC) was created by Congress in part to ensure that radio stations (which transitioned into TV stations) were broadcasting in the public's interest, whether that be news or entertainment. At one point, there was a rule that said networks had to devote equal time to all political candidates to prevent bias.

Before the airwaves were “deregulated” in 1996 by the Telecommunications Act, Congress saw

value in limiting bias on the airwaves. Now, it's up to the viewers to decide — but they can't do that if they're not getting the information in the first place.

This report is important right now, when Congress and the White House actively seek to limit the role of science in policymaking.

On Wednesday, the House Committee on Science, Space and Technology held a hearing to (ostensibly) debate the scientific method. It devolved into finger-pointing, name-calling and one Republican congressman yelling at Democrats and a leading climate researcher. In one down-to-Earth moment, Suzanne Bonamici (D-Ore.) asked the panel of scientists what Congress could do to advance science, “instead of holding this unproductive hearing.”

Later that afternoon, Congress voted to limit which scientific studies the Environmental Protection Agency can use to create regulations. If signed, the law would be entirely subjective — the EPA will be able to use only “the best available science.”

Best according to whom?

In an example of how this “best science” thing would work, EPA Administrator Scott Pruitt defied his own scientists and said no thanks on a rule that would protect children from developmental disorders.

The EPA's own scientists say the chemical chlorpyrifos, which can cause memory decline in young children, is showing up in our food and water at unsafe levels. “The chemical was banned in 2000 for use in most household settings but today is still used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples,” the New York Times reported Thursday.

Pruitt's response: We need to be “certain” that the chemical is causing defects before we limit it in our food.

If you have ever taken a fifth-grade science class, you know that there's no such thing as

scientific certainty. You will never hear a scientist say she is “100 percent certain” about anything, because that’s not the way science works. The U.S. judicial system understands this:

There is no common definition across science or within disciplines as to what threshold establishes certainty. Therefore, whether couched as “scientific certainty” or “[discipline] certainty,” the term is idiosyncratic to the witness.

In the case of chlorpyrifos, the expert “witness” is the scientist.

I’m not surprised that the networks don’t want to talk about climate change — it’s a hot-button political issue because politicians made it that way. As it turns out, politicians are inherently the only people who can politicize a subject.

Here’s the truth, though: Despite the lack of coverage in 2016, half the country thinks climate change is caused by human activity and believe it’s a problem. Less than a quarter of our population think climate change is either not happening or is no big deal.

The media have a responsibility to report the facts. If scientists agree an extreme weather event was made worse by climate change, viewers need to know that, not just because it is true, but because people do think it’s a problem. I don’t know whom network news and Congress are serving by turning a blind eye to climate change, but according to these poll results, it’s not the voters.

Breitbart

<http://www.breitbart.com/big-government/2017/03/30/deep-state-suspected-epa-press-release-prank/>

‘Deep State’ Suspected In EPA Press Release ‘Error’

By Joel Pollak 3/30/17

***The Hill* connects ongoing conflict among staff at the Environmental Protection Agency to a press release on President Trump’s executive order on energy independence**

Tuesday that included a quote slamming the president's new policy.

The press release included a quote, mistakenly attributed to Sen. Shelley Moore Capito (R-WV), "With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational ... Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime."

In fact, the *Hill* notes, that statement was made by Sen. Tom Carper (D-DE).

The *Hill* cites the "rift between many of the EPA's nonpolitical career employees and the political leaders appointed by Trump" in connection with the press release.

EPA staff reportedly said they had mistakenly released a draft of the statement. However, the agency did not explain why an attack on the president would have been included in any draft of any release.

Last week, the Washington Free Beacon's Adam Kredo reported an ongoing effort by Obama loyalists to sabotage the Trump administration by, among other methods, altering press releases.

"[H]oldovers from the Obama administration are working to undermine the Trump administration's agenda through efforts to alter official communications, a number of administration officials confirmed in conversations with the Washington Free Beacon," Kredo reported.

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Washington Times

<http://www.washingtontimes.com/news/2017/mar/30/epa-issues-press-release-using-democrats-quote-bla/>

Dept. of D'oh! EPA goofs, issues press release slamming Trump's climate actions

By Ben Wolfgang 3/30/17

The Environmental Protection Agency on Thursday sent out a press release touting praise for President Trump's rollback of Obama-era climate-change regulations this week — but the agency accidentally led the email with a blistering quote from a Democratic critic.

The press release includes a quote from Sen. Tom Carper, Delaware Democrat and ranking member on the Senate Environment and Public Works Committee, wrongly attributed to Sen. Shelley Moore Capito, a West Virginia Republican.

The email, titled "What They Are Saying About President Trump's Executive Order on Energy Independence," opens with a complete and total takedown of that order.

"With this executive order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," reads the quote by Mr. Carper but listed as coming from Ms. Capito.

Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime," it continues. "With the world watching, President Trump and [EPA] Administrator [Scott] Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come."

The agency quickly sent out a revised press release correcting the embarrassing error.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

To: So, Katherine[so.katherine@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: McGonagle, Kevin
Sent: Fri 3/31/2017 1:55:13 PM
Subject: OPA Clips 3/31/17

Below: Washington Post, Huffington Post (2), E&E News (2), Bloomberg BNA (4), The Hill (2), Forbes, Huffington Post (2), Washington Examiner (3/30), AP (2) (3/30), Politico (2) (3/30), Washington Post (2) (3/30), Breitbart (3/30), Washington Times (3/30)

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/31/epa-tries-to-praise-trumps-climate-order-ends-up-slamming-him-instead/?utm_term=.9d150d22a55f

EPA tries to praise Trump's climate order, ends up slamming him instead

By Derek Hawking 3/31/17, 1:19AM

The Environmental Protection Agency wanted to highlight some of the praise President Trump has received for his new executive order rolling back climate change regulations.

So on Thursday the EPA did what government agencies do whenever the president signs a new policy: sent out a news release loaded with glowing quotes from supporters.

Only one of the quotes — the first on the list, to be exact — wasn't so glowing.

“With this Executive Order, President Trump has chosen to recklessly bury his head in the sand,” read a statement in the release attributed to Sen. Shelley Moore Capito (R-W.Va.).

“Today’s executive order calls into question America’s credibility and our commitment to tackling the greatest environmental challenge of our lifetime,” it read. “With the world watching, President Trump and Administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.”

Not exactly the glittering accolade the president might have expected from a coal country Republican.

Bloomberg BNA reporter Patrick Ambrosio was among the first to point out the obviously off-message excerpt:

Indeed, the statement actually came not from Capito but from Sen. Thomas R. Carper (D-Del.), the top Democrat on the Environment and Public Works Committee, who blasted Trump’s executive order on Tuesday.

An honest mistake, or a deliberate act of sabotage from a rogue operator in the EPA press office?

Unclear. But the mix-up did come at a time of unprecedented tension between Trump’s political appointees and the EPA’s rank and file, as The Washington Post has reported. Many career employees have expressed deep concerns about the new administrator, Scott Pruitt, who repeatedly challenged the agency’s legal authority to regulate certain pollutants during his terms as attorney general of Oklahoma.

Whatever the case, the EPA quickly issued a correction Thursday morning, saying an internal draft of the news release was accidentally sent out with Carper’s quote.

“We apologize for the error and are making sure that our process is improved as we build our team,” an EPA spokesman told Politico.

The EPA also included Capito's actual statement, which lauded Trump's climate moves. It read, in part: "President Trump kept his promise to roll back one of the most harmful acts of overreach by the Obama administration — the so-called Clean Power Plan. If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact."

Trump thanked Capito by name when he signed his executive order at EPA headquarters on Tuesday. The order seeks to erase President Barack Obama's climate legacy by paring back rules on carbon emissions, lifting a moratorium on federal coal leases and eliminating requirements that federal officials consider climate change impact when making regulatory decisions, as The Washington Post has reported.

Carper's office told The Hill Thursday that the senator didn't mind having his quote included in the EPA's news release.

"Sen. Carper is happy to lend his words to a good cause," his spokeswoman said.

Huffington Post

http://www.huffingtonpost.com/entry/scott-pruitt-pesticide-chlorpyrifos_us_58dd331de4b0e6ac7092fbd8

EPA Chief's Refusal To Ban Brain-Damaging Pesticide Shows Profit Trumps Public Safety

By Chris D'Angelo 3/31/17, 5:47AM

WASHINGTON — Defying the recommendation of his own agency's scientists, Environmental Protection Agency Administrator Scott Pruitt has refused to ban a widely used pesticide that's been linked to learning disabilities in children.

Pruitt's order, signed late Wednesday, allows chlorpyrifos, an organophosphate insecticide that's been used on crops from broccoli to cranberries since the 1960s, to remain on the market for agricultural use. The EPA proposed in November 2015 under the Obama administration to

permanently ban the chemical on food crops, citing potential risks to human health. The move stemmed from a 2007 petition filed by the Natural Resources Defense Council and the Pesticide Action Network North America.

Critics on Thursday condemned Pruitt and President Donald Trump for showing they value corporate profits over public health. The move, less than two months after Pruitt was confirmed as the nation's top environmental officer, signals far looser regulation of harmful substances under the Trump administration.

"If the new administration is willing to support corporate interests over public safety in the face of such strong scientific evidence, then we should expect clear sailing for many other questionable pesticides in the future," Carey Gillam, a HuffPost contributor and research director for U.S. Right to Know, a nonprofit consumer advocacy group, told The Huffington Post in an email.

Pruitt, a lawyer who has shown disdain for scientific research, said the Obama-era proposal to ban the pesticide relied largely on studies "whose application is novel and uncertain, to reach its conclusions."

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt, a longtime antagonist of the agency he now leads, said in a statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results."

Chlorpyrifos, also known by its trade name Lorsban, is used in nearly 100 countries on more than 50 different crops, including corn, soybeans, cranberries and broccoli. Produced by Dow Chemical Co., it was largely banned in 2000 for at-home use in the U.S., but continues to be widely used on thousands of American farms.

Sheryl Kunickis, director of the the U.S. Department of Agriculture's Office of Pest Management Policy, was among those who applauded Pruitt's decision, which she said was "grounded in evidence and science."

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world,” Kunickis said in a statement.

Dow called it the “right decision for farmers” and said the chemical giant “remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety.”

Annual testing reports by USDA show chlorpyrifos residues in nectarines, peaches, cucumbers and other crops. Even low-dose exposure to organophosphates, particularly in the womb, has been found to harm brain development in children, leading to higher risk of disorders like autism.

For years, environmental groups and medical professionals have pushed for an all-out ban on the chemical. In a January letter to EPA, dozens of doctors, nurses and professors urged the agency to revoke all tolerances of chlorpyrifos in food.

“Children especially experience greater exposure to organophosphate pesticides due to their increased hand-to-mouth action, and relative to adults they eat more fruits and vegetables, drink more, and breathe more,” the letter states. “With each year of delay in cancelling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains.”

Jennifer Lowry, a pediatrician and toxicologist at Children’s Mercy in Kansas City and chair to the Council on Environmental Health for the American Academy of Pediatrics, told HuffPost she was “deeply troubled” by Pruitt’s decision, which she said denies science that chlorpyrifos causes irreversible harm to children. Multiple studies, she said, have shown that children exposed to organophosphate pesticides, such as chlorpyrifos, have an increased risk for abnormal neurodevelopment, including persistent loss of intelligence and behavior problems.

Lowry added that Pruitt’s decision allows the continued exposure of Americans to a substance that will harm children.

The Natural Resources Defense Council, the Pesticide Action Network North America, and Earthjustice have vowed to fight the EPA in court.

“The health of our children depends on it,” Miriam Rotkin-Ellman, a senior scientist at NRDC, said in a statement.

The idea that Pruitt, the former attorney general of Oklahoma, would side with industry giants comes as little surprise. As HuffPost has reported, a recent release of Pruitt’s Oklahoma emails revealed his close relationship with the oil, gas and utility companies he’s now tasked with regulating.

Pruitt has also made clear his low regard for near-universally accepted science, saying last month that he does not believe carbon dioxide is primarily to blame for global warming.

“Misstating the scientific evidence is just that, falsifying the facts,” Andrew Rosenberg, director of the Union of Concerned Scientists’ Center for Science and Democracy, wrote in a blog post Thursday. “And it is not an excuse for inaction.”

Gillam noted that the EPA is now reviewing glyphosate, a commonly used herbicide sold as Roundup that the World Health Organization declared a probable carcinogen last year.

“Certainly if chlorpyrifos is going to get a pass, glyphosate will as well,” Gillam said by email. “Corporate profits have once again trumped protection of the public. The administration is making it clear we should expect more of the same.”

Huffington Post

http://www.huffingtonpost.com/entry/epa-critical-press-release_us_58ddb285e4b05eae031ea12f

EPA Slams Trump’s Climate Change Policy – By Accident

By Mary Papenfuss 3/31/17, 12:02AM

The Environmental Protection Agency issued a statement slamming President Donald Trump's executive order rolling back climate change protections — but it was all a mistake. The statement, not Trump's climate policy.

The EPA issued a press release with positive comments from organizations like the U.S. Chamber of Commerce and the American Petroleum Institute.

But it also included scathing criticism right up top from a senator calling the move “irresponsible” and “irrational,” and accusing Trump of recklessly choosing to “bury his head in the sand.” The statement added: “With the world watching, President Trump and [EPA] administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.”

The quote was misattributed to Sen. Shelley Moore Capito (R-W.Va.), a supporter of coal mining who attended Trump's signing of the order. The statement was actually from Sen. Tom Carper (D-Del.), the top Democrat on the Environment and Public Works Committee and a critic of Trump's environmental policies. A Carper spokesman quipped to The Hill after the press release that he was “happy to lend his words to a good cause.”

The EPA attributed the mistake to human error. An internal draft was mistakenly sent out with the Carper quotes, the agency said in a statement. A corrected press release was sent later Thursday morning with Capito's quotes, which said in part that President Barack Obama's Clean Power Plan “would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact.”

EPA spokesman John Konkus apologized for the error, adding that officials “are making sure that our process is improved as we build our team.”

Another disconnect between the Trump administration and the EPA was apparent Wednesday when agency scientist Michael Kravitz criticized his boss Scott Pruitt and what's happening to the agency charged with protecting the environment in a letter to the editor of The New York Times.

"I am very saddened by what I see these days under an EPA administrator whose role it is to dismantle the agency that he leads," wrote Kravitz. "Our president comes to the EPA to sign an executive order withdrawing the Clean Power Plan and other environmental policies, and the audience applauds.

"I hope the nightmare ends soon."

Pruitt on Wednesday rejected a petition from environmental groups to ban the insecticide chlorpyrifos on crops, despite concerns by scientists in Pruitt's own agency about potentially serious health risks from chlorpyrifos in water and crop residue.

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E&E News

<http://www.eenews.net/eedaily/2017/03/31/stories/1060052388>

EPA cuts, riders complicate spending talks

By Geof Koss and George Cahlink 3/31/17

Congress is closing in on a final fiscal 2017 spending agreement that would provide fresh dollars for the Energy Department. But disputes over funding levels and policy riders could keep U.S. EPA and the Interior Department from getting new money.

House and Senate appropriators in both parties said they are making headway on an agreement to keep the federal government open when current funding expires at the end of next month. They handed off largely bipartisan deals for most, but not all, of the fiscal 2017 spending bills this week to leaders who will try to assemble a broad, omnibus spending package.

Lawmakers expect to unveil their final fiscal 2017 spending legislation the week of April 24, when they return from a two-week recess that begins April 7. They will then have to pass that deal quickly — or another temporary funding measure — to avoid a government shutdown when current dollars lapse on April 28.

Senate Interior and Environment Appropriations Subcommittee Chairwoman Lisa Murkowski (R-Alaska) said yesterday that she and ranking member Tom Udall (D-N.M.) had submitted their contribution to what appropriators hope will be an omnibus instead of another continuing resolution.

Murkowski said appropriators "were absolutely not working toward a CR" but acknowledged "outstanding issues" remained on the Interior and environment bill. "I feel pretty good with where our subcommittee is right now with Interior. We've got a tough portfolio," she added.

Udall seemed more pessimistic, saying, "There's still a lot undecided at this point." He said he was concerned that the current proposal would prevent EPA from "doing its job."

Indeed, the chief difference is over where to set funding levels for EPA with House and Senate appropriators sticking to the spending proposed in bills they moved earlier this year. The House-backed measure would cut EPA funding by \$164 million to \$7.98 billion, while the Senate bill would provide a more modest cut to \$8.1 billion.

A handful of potential policy riders are also unresolved.

The House bill contains policy provisions that would block several environmental rules and take aim at climate policy opposed by Democrats and some moderate Republicans, while the Senate version left out the most contentious of those add-ons.

Rep. Betty McCollum (D-Minn.), the ranking member on the House Interior and Environment Appropriations Subcommittee, hinted at some of those differences as well as what's at stake in negotiations.

"If Republicans want Democrats to vote for this bill, we expect it to sufficiently fund environmental protections without any poison-pill riders. I hope Republicans will work with us to protect American families and communities rather than shut down the federal government," she said.

The outlook appears better for the energy-water development bill, which funds the Energy Department and the U.S. Army Corps of Engineers.

"Ours is pretty much done," Rep. Mike Simpson (R-Idaho) said this week. He said California water issues and provisions addressing the proposed nuclear waste repository at Yucca Mountain, Nev., were sticking points that leaders would have to resolve.

The Trump administration is seeking \$120 million in fiscal 2018 to restart the licensing process for Yucca Mountain, as well as to launch an interim storage program that would house spent nuclear fuel from nuclear power plants until a permanent repository is ready. However, there's been talk of trying to address the nuclear waste standoff in fiscal 2017.

Simpson put the odds at 75 percent that fresh funding for energy and water programs would come in the package.

Sen. Dianne Feinstein of California, the top Democrat on the Energy and Water Development Appropriations Subcommittee, said she and Chairman Lamar Alexander (R-Tenn.) had come to a tentative agreement but acknowledged "there are a few outstanding issues."

The Interior and environment and the Labor, Health and Human Services, and Education spending bills are the only two of the 11 remaining measures for fiscal 2017 that did not send largely complete bipartisan deals to leaders. Senior leaders will now determine whether

differences on those measures can be bridged or if agencies covered by those two bills will get level funding for the rest of fiscal 2017.

Federal agencies have been operating under a stopgap CR since the start of the fiscal year on Oct. 1 that funds them at fiscal 2016 levels with few exceptions. Agencies not getting new dollars in the pending legislation would spend the last five months of the year with dollars still frozen at last year's levels.

It's not yet clear if the package will move first in the House or Senate. The House-passed defense spending bill has been sent to the Senate and could have an agreement for the rest of government funding tacked onto it.

Senate Majority Whip John Cornyn (R-Texas) said yesterday he was "more optimistic" after seeing bipartisan deals forged by appropriators that there would be fresh funding for most of government.

Like House Speaker Paul Ryan (R-Wis.), the Texan vowed there would not be a government shutdown.

But House Minority Leader Nancy Pelosi (D-Calif.) did not rule out Congress ending up passing a CR rather than new spending given "about 200 unresolved differences" and a push by the White House to have border wall funding added to the package.

"We want legislation that meets the needs of the American people and does not have the poisonous riders in it," she added.

Meanwhile, senators this week continued to push back against the Trump administration's fiscal 2018 budget as well.

"The 'Budget Blueprint to Make America Great Again' is misnamed," wrote 19 Senate Democrats this week in a letter to President Trump that objected to the proposal to slash funding at DOE and eliminate multiple programs at the department. "Instead, it would kill jobs and weaken America's competitiveness."

Also, 10 senators from six states Wednesday sent their own bipartisan letter to Trump opposing his budget proposal to kill off the Appalachian Regional Commission.

"Eliminating this essential program would have devastating consequences for the more than 25 million Americans that live in the Appalachian Region today, who need it now more than ever," wrote Sens. Shelley Moore Capito (R-W.Va.), Joe Manchin (D-W.Va.) and others.

E&E News

<http://www.eenews.net/climatewire/2017/03/31/stories/1060052407>

Pruitt reiterates states don't have to make plans

By Emily Holden 3/31/17

States have been under no obligation to comply with U.S. EPA's Clean Power Plan for more than a year, but Administrator Scott Pruitt didn't leave any room for doubt with guidance he sent to governors yesterday.

In a letter to state leaders, Pruitt reminded them of the February 2016 Supreme Court order staying implementation of the power-sector climate standards and specified that they "have no obligation to spend resources to comply with a Rule that has been stayed."

He added that "the days of coercive federalism are over" and that he looks forward to working with governors, state experts and local communities to "develop a path forward to improve our environment and bolster the economy in a manner that is respectful of and consistent with the rule of law."

The letter comes on the heels of an executive order that President Trump signed Tuesday to reverse the Clean Power Plan. Most states since the stay had shelved their work on specific plans, though some states that supported the rule had initially said they would keep working on plans in the hope that they would have a head start if the courts upheld the Clean Power Plan and let it begin in 2022 or soon thereafter.

Pruitt suggested that if the courts did uphold the rule, states would get extra time to meet requirements.

"To the extent that any deadlines become relevant in the future, case law and practice of the EPA supports the application of day-to-day tolling," he said.

But he also is set to begin a new rulemaking process to undo the Clean Power Plan.

Specific planning efforts for the rule trailed off over the last year, although some states continued to talk broadly about carbon-cutting efforts. Only Minnesota was still holding regular public meetings on the regulation. The Minnesota Pollution Control Agency meets with stakeholders today to discuss what the group has learned and where the state might go from here.

Pruitt's letter is mostly symbolic, as states already were not under any requirement to work on plans to cut carbon emissions. It could, however, complicate political debates in some states.

The governor in Virginia, for example, is taking heat from some Democrats, the former Republican attorney general and consumer advocates for not working to reverse a rate freeze that was enacted because of a debate over the Clean Power Plan (Climatewire, Feb. 24).

Utilities had argued that electric bills could rise under the Clean Power Plan. So the General Assembly passed legislation to prevent state regulators from reviewing rates. That means

companies can't charge customers more, but it also means they can't charge them less. Instead, they have been able to keep extra profits they might otherwise have had to pass on to ratepayers.

Gov. Terry McAuliffe (D) has said the state should wait until the Clean Power Plan is off the books before repealing the measure. That could take years.

In addition to the letter, EPA yesterday morning also sent out and then corrected an error in a press release quoting various conservative lawmakers and industry groups praising the executive order (Greenwire, March 30). The Obama administration, in comparison, typically followed up its announcements with mostly favorable news clips or blog posts from agency leaders.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241723&vname=dennotallissues&wsn=49946300

Trump Nixed Social Cost of Carbon, But Courts May Play a Role

By Rachel Leven 3/31/17

President Donald Trump has told federal agencies to ignore an Obama-era metric intended to measure the economic impacts of climate change. The move could land the agencies—eventually—in court.

Trump's executive order instead directs agencies to rely on guidance issued in 2003 during President George W. Bush's administration to assess the “social cost of carbon” in its regulations. Academics say the 2003 document doesn't contradict the Obama-era approach, even as the order highlighted certain considerations environmentalists have said could be used to inappropriately lower the number.

However, the move does leaves individual agencies on the hook to come up with their own estimates. And if those estimates aren't of high enough quality, the administration's actions could be legally overturned, attorneys said.

“This is not a smart move from the ability of the administration to carry out their program,” Richard Revesz, director of New York University School of Law's Institute for Policy Integrity, told Bloomberg BNA.

The social cost of carbon measures the impact a federal action will have on carbon emissions and projects those impacts into the future.

The metric has become an industry target because of how the estimate has been used to justify stringent regulations. Some industry representatives have said the number is inappropriately calculated or shouldn't be used at all, but courts have said these emissions must be assessed and that the Obama-era approach is reasonable.

The executive order that said the Obama-era approach to the social cost of carbon would no longer reflect federal policy also pulled back other climate policies from the last administration. The actions have been expected for months, as Trump railed against the policies on the campaign trail.

Obama Group Used Three Models

The social cost of carbon under the Obama administration represents long-term damages expected from a ton of carbon emissions in a given year. Carbon emissions are known to accelerate global warming, which leads to damages such as sea-level rise and increased and more severe wildfires.

The interagency working group that developed it under the Obama administration used three established social cost of carbon models and then averaged them. A ton of carbon emissions at a 3 percent average discount rate is worth \$36 in 2015, \$42 in 2020 and so on, they found.

However, the March 28 executive order said the Obama-era approach will no longer represent government policy. The working group—the Interagency Working Group on Social Cost of Greenhouse Gases—will also be disbanded. The administration urges compliance with a 2003 Office of Management and Budget guidance document—the Circular A-4.

“Effective immediately, when monetizing the value of changes in greenhouse gas emissions resulting from regulations, including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates, agencies shall ensure, to the extent permitted by law, that any such estimates are consistent with the guidance contained in OMB Circular A-4 of September 17, 2003,” the order states.

The OMB document was “the longstanding practice of the federal government, prior to ... the previous administration putting out its own estimates,” a senior Trump administration official who spoke to reporters on condition of anonymity about Trump's executive order said.

The apparent upshot of the order is that individual agencies can and, according to the order, will continue to assess the value of carbon dioxide emission reductions or increases stemming from federal action. While the executive order discarded the Obama-era method, nothing in the Circular A-4 overtly conflicts with the now-sidelined approach, economists said.

“An agency could legitimately follow the executive order and come up with the same number,” Billy Pizer, a Duke University economics professor, told Bloomberg BNA. “It may be hard to imagine in this political environment ... but it certainly would be inconsistent with the executive order.”

Room for Legitimate Debate

Pizer told Bloomberg BNA that two factors highlighted in the order—discount rates and global or U.S. impacts—could be debated by reasonable people and, if changed, could lead to a

significantly lower number than the Obama-era approach. Pizer said he supports the path the Obama-era group took.

One issue highlighted by the Trump administration is whether to consider the domestic or global impacts of greenhouse gas emissions affected by federal decisions.

Global impacts were considered under the interagency working group, partly in light of the impact that U.S. action can have on other countries to take their own mitigation actions that would circuitously benefit U.S. citizens, Pizer said. However, one could reasonably argue that U.S. regulatory policy is intended to protect U.S. citizens from harm, and therefore only direct domestic impacts should be considered, he said.

The other is the question of what discount rate to use: How much we should pay now for impacts of increased or reduced greenhouse gas emissions up to hundreds of years down the road? There are similarly reasonable arguments regarding why it is appropriate to use lower discount rate, Pizer said.

For example, the lower discount rate is considered the appropriate way to assess impacts for cost-benefit analyses, Pizer said. However, other parts of the cost-benefit analysis outside the social cost of carbon may not be executed in line with that theoretically appropriate approach and so there is an argument to calculate the social cost of carbon the same way as the rest of the cost-benefit approach, he said.

Where Debate Ends

Some have advocated for flipping the social cost of carbon's estimate more aggressively.

Nick Loris, an economist at the Heritage Foundation, said if this value has to be estimated, for example, the appropriate approach to quantifying the impact of reducing carbon emissions is to look at “the abated temperature increase,” rather than the broader climate impacts.

But many economists, including Pizer, stood by the Obama-era approach as the one that would yield the most realistic estimate of the impacts.

Michael Hanemann, director of Arizona State University's Center for Environmental Economics and Sustainability Policy, told Bloomberg BNA that—barring steps that would actually make the estimate higher—taking a broadly different approach to that of the working group would have the same value as “looking at chicken entrails.”

The Trump administration will have some legal restraints guiding what it can and can't do, legal scholars told Bloomberg BNA.

Rulings by the U.S. Court of Appeals for the Ninth Circuit in 2007 over fuel efficiency standards, and the U.S. Court of Appeals for the Seventh Circuit in 2016 over certain energy efficiency standards, say agencies have to consider the social cost of carbon and that the method the Obama administration developed to do so is reasonable, respectively, several academics and

environmentalists said.

Dan Farber, Sho Sato Professor of Law at the University of California, Berkeley, pointed to a 2015 opinion written by now-deceased Justice Antonin Scalia in a case over the Environmental Protection Agency's mercury emissions limits for power plants. That opinion further bolsters the argument that agencies must take a holistic look at costs and benefits of its actions, he said.

However, not everyone agreed these rulings are bulletproof or affect federal actions equally.

Will Yeatman, a fellow at the free market-oriented Competitive Enterprise Institute, told Bloomberg BNA he believed these rulings could be overturned and said the Ninth Circuit decision applies specifically to analyses done under the National Environmental Policy Act.

Confidence on All Sides

Observers from all sides said the use of social cost of carbon and the numbers used by agencies could easily end up being vetted by the courts. Even if the administration includes a social cost of carbon estimate in its regulations, some may lack the resources to do a thorough analysis.

David Doniger, director of the Natural Resources Defense Council's Climate and Clean Air Program, expressed confidence that, were the social cost of carbon to be inappropriately lowered, "they're going to find their rules are legally defective just the same way the Bush administration's was in the last decade." Yeatman was equally confident the Trump administration could defeat those kinds of legal challenges by citing relevant academic literature, and could overturn the earlier Ninth Circuit ruling.

"The whole essence of the social cost of carbon is based on assumptions," Yeatman said. "It wouldn't shock me if they re-did the social cost of carbon and it came out near zero."

Others were skeptical the Trump administration would actually have each individual agency take a hard look at the social cost of carbon to assess it in rulemakings.

Noah Kaufman, a climate economist for the World Resources Institute's U.S. Climate Initiative, told Bloomberg BNA, "I worry more that this is just the first step toward directing agencies not to address the social cost of carbon at all."

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241720&vname=dennotallissues&wsn=49945900

Power Plant Arguments Canceled as Trump EPA Seeks Lawsuit Pause

By Andrew Childers 3/31/17

A federal appellate court canceled upcoming arguments over the EPA's carbon dioxide limits for power plants after the Trump administration announced plans to review and possibly pull back the regulation (North Dakota v. EPA, D.C. Cir., No. 15-1381, 3/30/17).

States and utilities' challenges to the carbon dioxide performance standards for new power plants were scheduled to be argued April 17, but the U.S. Court of Appeals for the District of Columbia Circuit announced March 30 it would cancel that argument while it considers the administration's request to pause the lawsuits while it reconsiders the rule.

The administration's request comes after President Donald Trump signed an executive order March 28 directing the Environmental Protection Agency to reconsider the Obama administration's climate change regulations, particularly carbon dioxide limits on both new and existing power plants.

Challenges to the carbon dioxide standards for new power plants were scheduled to be heard by Judges Sri Srinivasan and Cornelia Pillard—both appointed by President Barack Obama—and Judge Karen LeCraft Henderson, a President George H.W. Bush appointee.

Last year a 10-judge panel for the D.C. Circuit heard a full day of argument over the Obama administration's carbon limits for existing power plants, known as the Clean Power Plan. The court has not yet issued its decision in that case, but the administration has requested that litigation be held in abeyance as well (West Virginia v. EPA, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Also March 30, EPA Administrator Scott Pruitt sent a letter to states telling them they have “no obligation to spend resources” to comply with the rule because it has been stayed by the Supreme Court.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241696&vname=dennotallissues&wsn=49947200

House Bill on EPA Science Board Heads to the Senate

By Rachel Leven 3/31/17

A House-passed bill that would change the makeup of a board that offers scientific advice to the EPA may face better odds in the Senate than a previous version last session.

The EPA Science Advisory Board Reform Act of 2017 (H.R. 1431), sponsored by Rep. Frank Lucas (R-Okla.), passed on a 229-193 House vote March 30.

It is similar to one passed in the last Congress by a 236-181 margin and would put in place new qualifications for board members—including disqualifying scientists who have EPA grants or

contracts as having a conflict of interest.

The measure also would require that “at least ten percent of the membership of the Board are from State, local, or tribal governments.”

Backers says the bill aims to make the board more independent and accessible for public comment. Opponents say it would block scientists with expertise from serving on the board, increase industry's influence and unnecessarily slow the board's activities.

The bill now heads to the Senate, where its predecessor in the last session of Congress—the EPA Science Advisory Board Reform Act of 2015 (H.R. 1029)—never received a hearing. A spokesman for the majority on the Senate Environment and Public Works Committee previously told Bloomberg BNA the committee is committed to the bill's stated goal of ensuring Environmental Protection Agency science is more open and transparent.

The American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation are among the legislation's key supporters. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The Congressional Budget Office estimates the bill, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, would cost less than \$500,000 annually for additional personnel and administrative expenditures. It would not affect direct spending or budget deficits, the office said in its March 27 cost estimate.

The House Science, Space and Technology Committee approved the bill March 9 by a 19-14 vote.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108241717&vname=denotallissues&wsn=49946850

Trump to Decide on Climate Pact by Late May, Spicer Says

By Dean Scott 3/31/17

President Donald Trump will decide whether to keep the U.S. in the 2015 Paris climate pact by late May “if not sooner,” White House Press Secretary Sean Spicer said, in hopes of settling the issue before the president heads to the May 26-27 Group of Seven summit in Italy.

“We are currently reviewing issues related to the agreement and expect to have a decision by the time of the G-7 summit, late May-ish if not sooner,” Spicer told reporters March 30.

The comment came amid continued speculation over whether Trump intends to make good on his campaign vow to “cancel” U.S. participation in the Paris deal, the first truly global climate

agreement, or keep the U.S. in the pact.

Trump began rolling back myriad Obama administration climate policies under a March 28 executive order—directing the Environmental Protection Agency to suspend, revise, or rescind its power plant carbon pollution limits—but has thus far put off a decision on U.S. participation in the Paris deal.

The Paris Agreement, the first to include climate actions by developed and developing nations alike, was reached after more than two decades of United Nations negotiations.

Trump, who has labeled climate change a hoax, has also argued that the Paris deal would hurt U.S. economic competitiveness.

President Barack Obama accepted the Paris deal using his executive authority to negotiate international agreements. Trump, as a result, can essentially undo U.S.

The Hill

<http://thehill.com/policy/energy-environment/326661-oklahoma-bar-association-investigating-ethics-complaint-against>

Oklahoma Bar Association investigating Pruitt over private email use

By Max Greenwood 3/31/17, 8:14AM

The Oklahoma Bar Association is investigating an ethics complaint alleging that Environmental Protection Agency Administrator Scott Pruitt misled a Senate committee about his use of a private email address during his tenure as Oklahoma attorney general.

The complaint was filed last week by the Center for Biological Diversity and University of Oklahoma law professor Kristen Van de Biesenbos. In it, they allege that Pruitt incorrectly told members of the Senate Environment and Public Works Committee that he never used a private email to conduct official business as Oklahoma's top law enforcement official.

The investigation was first reported by KSWO-TV in Oklahoma.

A public records lawsuit, however, found several instances in which Pruitt did, in fact, use a private email address for official business.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," the complaint reads.

By misrepresenting the facts, it said, Pruitt violated Oklahoma's rules of professional conduct.

Pruitt was confirmed by the Senate last month, though his nomination to the top EPA job was a subject of controversy for Democrats and environmental advocates, who pointed to Pruitt's reportedly antagonistic relationship with the environmental agency. During his tenure as Oklahoma attorney general, Pruitt sued the EPA more than a dozen times.

The Hill

<http://thehill.com/policy/energy-environment/326635-conservatives-fear-epa-chief-going-soft-on-climate-science>

Conservatives fear EPA chief going soft on climate science

By Timothy Cama, 3/31/17, 6:00AM

The head of the Environmental Protection Agency (EPA) is facing heavy pressure from conservatives to take on the science of climate change.

Undoing the 2009 endangerment finding — the Obama administration's conclusion that greenhouse gases are a threat and can be regulated — would make it easier for EPA chief Scott Pruitt to reverse President Obama's climate agenda.

That's because it would remove the legal obligation under the Clean Air Act to regulate carbon dioxide, removing a key tool that environmentalists are counting on as they try to keep Obama's policies like the Clean Power Plan in place.

The finding that greenhouse gases "endanger both the public health and the public welfare of current and future generations" is the lynchpin of climate policy under the Clean Air Act, and removing it could effectively gut many of EPA regulations.

But while Pruitt has expressed skepticism of the scientific consensus that greenhouse gases are the primary cause of climate change, repealing or changing the endangerment finding would be a significant lift, according to experts and supporters of climate policies, with the vast majority of

scientific data working against Pruitt.

“The science is very clear. The endangerment finding is basically unquestioned throughout the scientific community and the legal community,” said Sen. Jeff Merkley (D-Ore.). “So I think it would be a very bizarre, unproductive and destructive thing to revisit that.”

President Trump’s executive order this week to start the process of rolling back nearly all of former Obama’s climate agenda did not ask the EPA to reconsider the endangerment finding.

Sources close to EPA leadership said that early drafts of the order would have instructed the department review the finding. But Pruitt successfully pushed against that.

Those sources claimed that Pruitt, the former attorney general of Oklahoma and a frequent litigant against the Obama administration, was concerned about his political future and didn’t want to be labeled anti-science.

“They’re looking for reasons to not do it because they don’t want a fight,” a person familiar with the deliberations said, referring to Pruitt and his allies.

Breitbart News columnist James Delingpole wrote this week that Pruitt should consider resigning if he won’t repeal the endangerment finding, saying that he “is more interested in building his political career than he is taking on the Green Blob.”

In addition, the conservative Competitive Enterprise Institute filed a petition last month formally asking the EPA to launch a review, saying, “since that finding was issued, evidence has continued to mount that directly contradicts it.”

The original push in the administration to strike down the endangerment finding came in part because Trump promised last year, in a questionnaire from the fossil fuel-backed American Energy Alliance (AEA), to review the finding if he were elected.

Apart from that, Trump frequently railed against Obama’s climate policies. He called climate change a “hoax” and promised to remove barriers to fossil fuel production and use.

Pruitt has walked a fine line on climate change science. He said at his Senate confirmation hearing in January that he believes the climate is changing, but that the extent to which human activity contributes to it, and what should be done about it, are “subject to continuing debate and dialogue, and well it should be.”

But on CNBC earlier this month, Pruitt said carbon dioxide is not the “primary contributor” to global warming, and said that Congress should have a say over what the United States does, if anything, about climate change.

The EPA’s endangerment finding came in response to the Supreme Court’s 2007 decision in *Massachusetts v. EPA*. The court ruled that greenhouse gases from cars are air pollutants, and said the EPA is obligated to decide whether their emissions rise to the level of requiring

regulation.

The fact that Trump's executive order didn't mention the finding does not preclude future action on the matter.

The EPA did not return a request for comment on whether it plans to consider repealing the endangerment finding.

Republicans in Congress are split on Pruitt's decision to forego action on the finding for the time being.

Sen. Lisa Murkowski (R-Alaska), chairwoman of the Energy and Natural Resources Committee, sponsored unsuccessful legislation to undo the finding shortly after it was issued, out of concern of the impact on fossil fuel industries like oil, which is important to Alaska's economy.

But she said she is bothered by the Trump administration's plans.

"It seems to me a rational, responsible approach, given what he has in front of him," Murkowski said of Pruitt's agenda. "So I'm not questioning why or if he has to go back to the endangerment finding."

Rep. Kevin Cramer (R-N.D.), a close Trump ally who served last year as an adviser to his campaign on energy policy, said he doesn't like the finding, but he understands the need to avoid action for now.

"It's a little bit like healthcare. If you let perfect be the enemy of good, you sometimes don't get anything," Cramer said, comparing it to the recent fight over repealing and replacing ObamaCare.

"And I think the endangerment finding just would have been such a heavy lift, because legally, to unwind it would have just been so onerous. That's not to say we shouldn't try or continue to try, over time. But it shouldn't hold up these other, more immediate things," he continued.

But Rep. Joe Barton (R-Texas), vice chairman of the Energy and Commerce Committee, said he'd like to see the administration take on climate science.

"They ought to really take a look at the endangerment finding that the Obama administration issued when they first got in office," he said. "I think it's very flawed and should be, at a minimum, revisited."

Tom Pyle, president of AEA, agreed that the Trump administration should make it a priority.

"A lot of the hard work they'll be doing over the next several years could easily be undone should another administration come in and have a significantly different perspective on the issue," said Pyle, who led Trump's transition team at the Energy Department.

Pyle said his group doesn't necessarily think that greenhouse gases do not cause climate change. But Congress should decide the issue, and the Clean Air Act is not the right tool, he said.

"I think it only makes sense for the president and the administration to do these things," Pyle said. "I don't think the advice he's been getting about putting it aside for now is sound."

Forbes

<https://www.forbes.com/sites/emilywillingham/2017/03/31/what-we-know-about-chlorpyrifos-the-pesticide-the-epa-thinks-is-bad-but-wont-ban/#46682f33181f>

What We Know About Chlorpyrifos, The Pesticide The EPA Thinks Is Bad But Won't Ban

By Emily Willingham 3/31/17 7:47 AM

The US Environmental Protection Agency (EPA) this week reversed course on a recommendation to ban the widely used pesticide chlorpyrifos (trade name Lorsban) and denied a petition to arrest use of the pesticide on crops. Confusingly, the agency had recommended in 2015 that the chemical, already banned for application in homes in 2001, be banned for use on crops, as well. That proposal has now been spirited away under the anti-regulatory guidance of the EPA's new administrator, Trump appointee Scott Pruitt. No doubt, more such looking away from the evidence lies in our nation's future.

And the evidence is difficult to avoid. Indeed, it's remarkably easy to find, even on the EPA's own website.

The original 2001 ban was put into place because of findings suggesting genuine neurotoxic threat with use of the pesticide in homes. Similar findings support the now-not-happening crops ban. The pesticide is undoubtedly effective and does what it's intended to do: destroy pests that try to destroy crops. But like so many such chemicals, its success for us can also be a threat to us.

Many of these chemicals work by interrupting or damaging the nervous or reproductive systems of their targets. Even though we are clearly not aphids and these and other insects are among our most distant animal relations, the pathways of neural and reproductive development we share have more in common than you might think. And that means what disrupts them holds potential to disrupt us.

Walking the line between "benefit for humanity because it feeds all of us" and "harmful to humanity because of negative health effects" has often been a balancing act for those using these agricultural tools. No farming approach is immune to these risks, not even organically grown crops, which still are exposed to pesticides.

But some pesticides are clearly more harmful than others. The question is where chlorpyrifos lands on that spectrum.

To hear those who work with it tell their story, it's fine: You just send the kids inside before you apply it. But the thing is, people who work directly with a pesticide aren't the people examining its effects on a larger scale, across a definitively exposed population. Turns out, those populations exist thanks to the 2001 ban on chlorpyrifos use in homes. Researchers had access to a group of children whose mothers were exposed during pregnancy before the ban and could compare them to those who were not. Their findings suggest a link between the pesticide and various adverse developmental outcomes.

Take an example from women living in New York City. Before the ban, the air they breathed indoors was almost 100% positive for the chemical, and up to 70% of their babies had the pesticide in plasma samples from their umbilical cords. A Columbia study found that children subject to this exposure had deficits in IQ and working memory. That same group compared exposed children to children unexposed (born after the ban) and found significant motor and other developmental delays in the high-exposure group.

Yet another study from this group found that this evidence of harm was stronger for boys than for girls, in keeping with many indications of differences in neural resilience between the sexes. Again, this effect was linked to reduced scores on working memory, especially among exposed boys.

The litany of effects or correlations between chlorpyrifos and adverse developmental outcomes continues. A sampling:

An association with reduced birthweight among those with the highest in utero exposures.

A link between prenatal exposure and tremor in childhood. This finding is relevant because the pesticide acts on an enzyme involved in motor signaling.

Effects for children living in rural areas on their intellectual development following prenatal exposure, based on levels of a metabolite in maternal urine.

From the Columbia group, findings of structural changes in the developing brain, associated with exposure to the pesticide.

As far back as the 1990s, evidence of an effect on the sensory system following exposure.

The EPA has its own human health risk assessment as it relates to chlorpyrifos. From their website:

Based on current labeled uses, the revised analysis indicates that expected residues of chlorpyrifos on food crops exceed the safety standard under the Federal Food, Drug, and Cosmetic Act (FFDCA). In addition, the majority of estimated drinking water exposure from currently registered uses, including water exposure from non-food uses, continues to exceed safe levels, even taking into account more refined drinking water exposure. This assessment also shows risks to workers who mix, load and apply chlorpyrifos pesticide products.

Their complete risk assessment for this pesticide is linked here. Among their conclusions:

In summary, the EPA's assessment is that the CCCEH study, with supporting results from the other 2 U.S. cohort studies and the seven additional epidemiological studies reviewed in 2015, provides sufficient evidence that there are neurodevelopmental effects occurring at chlorpyrifos exposure levels below that required for AChE inhibition.

Of course, human risk isn't the only consideration. The EPA has also evaluated the ecological risks. In the agency's executive summary from that evaluation (Word doc), they provide a table of species that the chemical is expected to affect adversely. The agency has concluded that chlorpyrifos is likely to adversely affect 1778 species, including plants, birds, fish, mammals, and nontargeted insects.

The current status of the chlorpyrifos situation is that the EPA has, under a court-ordered deadline, denied a petition from the National Resources Defense Counsel and Pesticide Action Network North America to revoke all pesticide tolerances (maximum food levels) and all registrations for the pesticide. Objections to this decision must be registered within 60 days of the date of the official filing with the Federal Register. The order denying the petition notes that the action:

may also be of interest to agricultural producers, food manufacturers, or pesticide manufacturers.

No surprise there.

The agency also says that it will:

continue to review the science addressing neurodevelopmental effects of chlorpyrifos as part of the ongoing registration review and complete our assessment by the statutory deadline of October 1, 2022.

Five years is a long time and no doubt a lot of money for those with a vested interest in keeping the chlorpyrifos faucet (chlorpyrifaucet?) running. The question then still remains: What harm will this chemical do to the developing brains of our nation's children and the ecosystems around our nation's crops in the meantime? As its own website shows, the EPA had already made its decision, or at least it had until Pruitt came on board.

Huffington Post

http://www.huffingtonpost.com/entry/pruitt-bar-association-ethics_us_58ddd190e4b05eae031eaaa2

Oklahoma Bar Association Probing Ethics Complaint Against Scott Pruitt

By Mary Papenfuss 3/31/17, 5:23AM

The Oklahoma Bar Association has launched an investigation into an ethics complaint filed against Environmental Protection Agency chief Scott Pruitt.

The complaint accuses Pruitt of breaching Oklahoma Rules of Professional Conduct by allegedly misrepresenting the facts when he told a Senate committee at his confirmation hearing that he did not use a personal email address to conduct business while attorney general of Oklahoma, reported KSWO-TV.

Documents that the attorney general's office released through an Open Records Act lawsuit in Oklahoma appear to contradict sworn testimony from Pruitt, the state's former attorney general.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," states the complaint, filed last week by the nonprofit Center for Biological Diversity, which works to protect endangered species, and University of Oklahoma law professor Kristen van de Biezenbos.

Emails released as part of the lawsuit include a message from an executive of the American Fuel and Petrochemical Manufacturers association to Pruitt's me.com address, asking him to use his position as the state's attorney general to help roll back renewable fuel standards set by the Obama administration, according to a statement from the Center for Biological Diversity.

"We have ... opened this matter for investigation," said a letter from the bar to van de Biezenbos dated Tuesday. "After the matter has been fully investigated, your grievance and the response of [Pruitt's] attorney will be presented to the Professional Responsibility Commission."

Attorney Amy Atwood from the Center for Biological Diversity said in a statement that she was "very pleased" about the investigation. "Lying to Congress is a serious ethical breach, and it doesn't help that Pruitt's use of private emails reflect potential collusion with the very oil and gas industry he's now supposed to be regulating," she said.

Pruitt has not commented on the investigation nor on the complaint.

He was narrowly confirmed as EPA head last month despite Democrats' calls to delay the vote until the release of new documents detailing his relationship with oil and gas companies while he was attorney general.

A group of law professors last month filed a "professional misconduct" complaint against President Donald Trump's chief counsel Kellyanne Conway with the Washington, D.C., Office of Disciplinary Counsel of the Board of Professional Responsibility, which addresses complaints about members of the local bar. They argued that Conway's several lies (including linking immigrants to a fictitious "Bowling Green massacre") was bringing "shame upon the legal profession."

Huffington Post

http://www.huffingtonpost.com/entry/trump-executive-order-natural-disasters_us_58dbea6ee4b0cb23e65da328

Here's How Trump's Climate change Order Will Make Natural Disasters Harder To Face

By Lydia O'Connor 3/31/17, 5:47AM

President Donald Trump's executive order on climate change threatens state and local governments' ability to prepare for and cope with extreme weather events, climate and planning experts warn.

The executive order, issued Tuesday, goes beyond undoing Obama-era commitments to clean energy. It revokes an Obama-era executive order aimed at planning for natural disasters linked to climate change, including sea-level rise, droughts, hurricanes, wildfires and extreme heat.

That now-revoked 2013 executive order, entitled "Preparing the United States for the Impacts of Climate Change," charged federal agencies with helping states and localities improve resilience to natural disasters and established a task force of state, local and tribal leaders dedicated to determining needs.

Trump's action could sever those governments from important federal data and tools to help them prepare for extreme weather, experts said.

A burned out Porsche is seen near a partially burned home in the Santa Cruz Mountains near Loma Prieta, California on September 27, 2016. Climate experts say wildfires are likely to increase as the planet warms.

“It’s almost as if we think if we don’t have the information, it won’t happen,” said [Rachel Cleetus](#), a lead economist and climate policy manager with the Union of Concerned Scientists. “But that’s not true. We can bury our heads in the sand, but the facts are still the facts. All we’re doing is preventing people from being able to take protective measures ahead of time.”

The task force established by the 2013 executive order has played an important role guiding cities and states in climate-smart planning.

In 2014, the task force released [recommendations](#) for how federal agencies can aid the rest of the country, and helped develop the [Climate Resilience Toolkit](#), a continually updated online database with climate data and projections, case studies on responses to past disasters, and directories of experts and funding opportunities. The toolkit was assembled with climate information gathered by federal agencies.

The toolkit [has helped](#) places like low-lying [Tybee Island](#), Georgia, prepare for the impacts of sea-level rise, which can contribute to more frequent and widespread flooding. Last year, the island’s city council approved plans to improve the only road to the island, retrofit stormwater drainage systems and stabilize shorelines to block high water.

Cleetus said it’s unclear what revoking the Obama order will mean in practice. Nor is it certain how far the Trump administration will go to halt climate-preparedness efforts at federal agencies, or to curb access to resources like the Climate Resilience Toolkit. But Trump’s order doesn’t bode well.

“It really goes after some of the core missions of these agencies,” Cleetus said, pointing to the Federal Emergency Management Agency’s help with coastal flooding and wildfires as an example. “It’s terrifying to see a government that actually wants to go backwards when there’s so much work to do,” she added.

Revoking the Obama executive order may be part of a twofold assault on some federal agencies. Those that help with climate change response and resilience efforts, such as FEMA, the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, all are threatened with [steep cuts](#) under Trump’s budget proposal.

"It's not some theoretical threat in the future," Cleetus said. "We're already experiencing these impacts, so it's a real dereliction of responsibility to say they essentially don't care, that they're not going to help."

Streets damaged during Hurricane Sandy are seen in Ortley Beach, New Jersey, in this November 10, 2012. One year later, President Obama released an executive order on planning for such disasters.

The possible effects of climate change have already been widespread: Years of severe drought in California and other Western states followed by a record-wet winter, a series of "1-in-1,000-year" floods last summer, and a decade of record-low Arctic sea ice.

Trump's order "sets everyone up for a lot more of these disasters," warned Kevin Trenberth, a distinguished senior scientist at the National Center for Atmospheric Research.

Some big cities may be spared. Steven Cohen, executive director of Columbia University's Earth Institute and a former EPA official, said he expects efforts like New York City's nearly \$20 billion plan to fortify the city will move forward.

"This will continue without the federal government, but would benefit from federal infrastructure funding and additional federal funding on the science and engineering of climate change and climate science," Cohen said. "Even though removing these federal policies is not helpful, real estate developers, insurance companies, power companies and many other organizations are assessing the financial risks of climate change and factoring it into their decision making."

Trump's action could be especially bad news for smaller communities lacking the resources to collect their own data, said climatologist Michael Mann, director of the Earth System Science Center at Pennsylvania State University.

"The regions with those who are least well off, who have the least adaptive capacity and the least resilience ... rural regions and the South," are most likely to suffer, Mann said. "Many of the very people who voted for Trump are being directly hurt by his policies."

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Washington Examiner

<http://www.washingtonexaminer.com/epas-pruitt-to-governors-the-days-of-coercive-federalism-are-over/article/2618959>

EPA's Pruitt to governors: 'The days of coercive federalism are over'

By John Siciliano 3/30/17 7:30 PM

Environmental Protection Agency Administrator Scott Pruitt assured states on Thursday that they do not have to comply with any part of the Obama-era climate regulations for existing power plants, known as the Clean Power Plan.

"The days of coercive federalism are over," Pruitt declared in a letter sent to state governors. "Accordingly, I look forward to working with you, your state experts and local communities as we develop a path forward to improve our environment and bolster the economy in a manner that is respectful of and consistent with the rule of law."

The letter was sent in fulfilling one of EPA's obligations under the "Energy Independence Executive Order" that President Trump signed Tuesday.

Pruitt emphasized in the letter that the Supreme Court halted the regulation more than a year ago and that states "have no obligation to spend resources to comply with a rule that has been stayed by the Supreme Court."

The Justice Department on Wednesday asked the D.C. Circuit Court of Appeals to suspend its review of the Clean Power Plan as the EPA conducts its own review of the regulation.

If the appeals court upholds the regulation, although even proponents don't completely believe it will survive entirely, the Supreme Court halt would still stay in place. And the EPA and the Trump Justice Department will have to take their fight over the regulation to the high court.

Governors in California, Washington and Oregon have said they will intensify their own efforts to reduce greenhouse gas emissions. Many scientists blame the emissions from the burning of fossil fuels for causing the Earth's temperature to rise, resulting in catastrophic sea-level rise, ocean acidification and more severe storms.

The U.S. Conference of Mayors issued a statement Wednesday night opposing Trump's executive order and the rollback of the Clean Power Plan.

"The U.S. Conference of Mayors supports the Clean Power Plan as an essential next step to address and lower greenhouse gas emissions as part of our nation's responsibility to address global warming," said Tom Cochran, CEO and executive director of the mayors organization.

"The U.S. utility sector must be part of the solution and the [power plan] is a framework to ensure necessary reductions from this sector."

He also said that the mayors stand behind the 2015 Paris climate change accord. Trump has not decided if he will withdraw from the non-binding United Nations' agreement.

The White House said Thursday that a decision is expected to come in May. The climate agreement is expected to come up in talks on April 6-7, when Trump hosts Chinese President Xi Jinping at his Mar-a-Lago retreat in Florida.

AP

http://hosted.ap.org/dynamic/stories/U/US_ETHICS_COMPLAINT_PRUITT?SITE=AP&SECTION=HOME&

Oklahoma Bar Association opens investigation of ex-AG Pruitt

By Tim Talley 3/30/17 8:36 PM

OKLAHOMA CITY (AP) -- The Oklahoma Bar Association has opened an investigation into an ethics complaint against former state Attorney General Scott Pruitt, now administrator of the Environmental Protection Agency, according to a letter from the association's general counsel.

The complaint, filed by the Center for Biological Diversity, a nonprofit organization that works to protect endangered species, and associate professor Kristen van de Biezenbos of the University of Oklahoma College of Law, says Pruitt may have violated the Oklahoma Rules of Professional Conduct when he told a U.S. Senate committee at his confirmation hearings in January that he only used his attorney general's email address to conduct official business.

The complaint, dated March 21, says documents released by the attorney general's office through an Open Records Act lawsuit in Oklahoma seem to contradict Pruitt's sworn testimony and indicate Pruitt also used a personal email address to conduct official business.

"It appears that Mr. Pruitt misrepresented material facts that bore on the Senate committee's analysis of Mr. Pruitt's fitness to serve as EPA Administrator," the complaint states.

Emails and other documents released by the attorney general's office indicate Pruitt coordinated closely with fossil-fuel companies and special interest groups who worked to undermine federal efforts to curb planet-warming carbon emissions.

Democrats on the U.S. Senate committee that held the confirmation hearings have criticized Pruitt's close ties to the oil and gas industry. As Oklahoma's attorney general, Pruitt frequently sued the agency he now leads, including filing a multistate lawsuit against the EPA opposing the Obama administration's plan to limit planet-warming carbon emissions from coal-fired power plants.

The Oklahoma Bar Association opened an investigation on Tuesday, according to a letter to van de Biezenbos from General Counsel Gina Hendryx. Among other things, Bar Association rules state "it is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation," according to the complaint.

On Thursday, neither the EPA nor Pruitt immediately responded to emails and phone calls seeking comment about the complaint.

Amy Atwood, an attorney for the Center for Biological Diversity who is based in Portland, Oregon, said the organization wants to know whether Pruitt misrepresented the truth during his Senate testimony, which would be in violation of Bar Association guidelines.

"That's one of the most important ethical rules that applies to lawyers," Atwood said. "I hope the investigation will help us all understand why Pruitt was so cagey about his communications with fossil-fuel interests."

AP

http://hosted.ap.org/dynamic/stories/U/US_EPA_MISQUOTE?SITE=AP&SECTION=HOME&TEMPLATE=D

EPA corrects media release misquoting GOP senator

3/30/17 5:05 PM

WASHINGTON (AP) -- The Environmental Protection Agency has corrected a media release falsely quoting a Republican senator as criticizing President Donald Trump over his denial of man-made climate change.

The media release Thursday was supposed to be a roundup of statements from officials supporting Trump's executive order seeking to eliminate Obama-era restrictions on carbon emissions from coal-fired power plants.

Sen. Shelley Moore Capito of West Virginia was misquoted as saying Trump has chosen to "recklessly bury his head in the sand" about the "clear science" showing the Earth is warming. The release also misspelled the first name of the GOP senator, a staunch Trump booster whose home state is heavily dependent on coal mining.

The quote was actually from Sen. Tom Carper, a Delaware Democrat.

EPA spokesman John Konkus apologized for the mistake.

Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/kreutzer-to-leave-epa-in-latest-agency-departure-085733>

Kreutzer to leave EPA in latest agency departure

By Andrew Restuccia and Alex Isenstadt 3/30/17, 5:44PM

David Kreutzer, a special adviser to EPA Administrator Scott Pruitt, is leaving the agency on Friday and hopes to rejoin the Heritage Foundation, marking the second departure of a political appointee this month.

Kreutzer told POLITICO he is in negotiations to accept a job at Heritage working on "productivity and economic growth" with an emphasis on labor and trade.

"Of course, you can't talk about productivity and economic growth with talking about energy. So, I will still be somewhat involved in that arena," he said. Kreutzer spent nearly a decade at the conservative think tank before joining the Trump transition team after the election and then EPA.

Kreutzer's anticipated departure comes two weeks after another EPA political appointee, David Schnare, resigned, saying he was bothered by disloyalty to President Donald Trump at the agency among both political appointees and career employees.

Kreutzer said his decision to leave had nothing to do with the reported tension at the agency.

Schnare and Kreutzer were both members of Trump's "beachhead" team, a group of temporary political appointees tasked with helping to run government agencies while the administration gets its nominees in place.

POLITICO reported earlier this week on tension at EPA, including clashes between Pruitt's chief of staff, Ryan Jackson, and Don Benton, the agency's White House-assigned senior adviser. Conservatives have also lashed out at Pruitt for arguing against including language revoking the agency's 2009 "endangerment finding" in an executive order Trump signed this week.

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Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/petition-sets-up-showdown-on-endangerment-finding-085738>

Petition sets up showdown on endangerment finding

By Alex Guillen 3/30/17 7:40 PM

A petition asking EPA to revoke its 2009 greenhouse gas endangerment finding has set the agency on a path toward a conflict with conservative groups that Administrator Scott Pruitt has sought to avoid.

The petition, filed last month by the conservative Competitive Enterprise Institute and released to POLITICO today, argues that since EPA declared that carbon dioxide and other greenhouse gases pose a threat to public health and welfare, “evidence has continued to mount that directly contradicts it.” The 2009 endangerment finding paved the way for the Obama administration to regulate those emissions from cars, power plants and other sources.

CEI's petition cites an alleged pause in global warming since 1998, argues that warming falls within the Earth's historical temperature fluctuations, and argues that the atmosphere is less sensitive to CO2 buildup than previously predicted in warming models.

The vast majority of climate scientists say those arguments are not borne out by the data. They argue that research shows the “pause” never really happened, note that the rapidity of global temperature changes is unparalleled in the historical record, and say warming has outpaced most models' predictions.

Pruitt personally lobbied to drop language from President Donald Trump's executive order this week calling for a review of the endangerment finding. While groups like CEI and The Heritage Foundation continue to press for a review, many legal observers note that the overwhelming body of evidence on climate change means any such effort would be both difficult and highly vulnerable to a court challenge.

WHAT'S NEXT: EPA must respond to the petition within a reasonable time frame, but there is no specific deadline. The agency may deny CEI's request, cementing the endangerment finding and EPA's obligation to regulate carbon emissions. Or it could launch a new rulemaking to revise or rescind the finding in response to the petition.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/30/a-second-climate-change-skeptic-is-leaving-the-epa-and-will-return-to-heritage/?utm_term=.7ebc3ceaa53e

A second climate-change skeptic is leaving the EPA and will return to Heritage

By Steven Mufson, Chris Mooney and Juliet Ellperin 3/30/17, 10:06PM

A conservative economist who has written that “no consensus exists that man-made emissions are the primary driver of global warming” has resigned from the Environmental Protection Agency, according to multiple people notified of the move Thursday.

David Kreutzer, who also served on the president-elect’s “landing team” for the EPA, is returning to the conservative Heritage Foundation. Kreutzer, formerly a fellow at Heritage, left it for a permanent job at the EPA focused on economic policy. According to multiple officials there, he sent an email this week to colleagues informing them that Friday would be his last day.

Kreutzer is the second member of President Trump’s environmental team to leave the agency in recent weeks. David Schnare, a conservative who had worked at the free-market Energy and Environmental Legal Institute before joining the Trump administration, departed two weeks ago. Both were vocal critics of the Obama administration and advocated lifting federal restrictions on activities in the energy industry as well as elsewhere in the private sector.

An EPA spokeswoman declined to comment Thursday, noting that the agency does not comment on personnel matters. A Heritage spokesman said the same. Kreutzer did not respond to requests for comment by email and phone.

Top aides to EPA Administrator Scott Pruitt lobbied Kreutzer to stay, according to an individual familiar with the discussions who spoke on the condition of anonymity to talk about personnel decisions.

Working within the EPA would have provided Kreutzer with a prime platform to advance his arguments that the science behind climate change is not sufficiently robust to support stringent federal limits on greenhouse gases — just the sort of regulations that the agency has begun to reverse under Pruitt.

Kreutzer, an economist who previously served as the mayor of Dayton, Va., has pressed for recalculating the “social cost of carbon,” a metric that the Obama administration had used to assess the negative impacts of climate change. Kreutzer advocated for using a higher “discount rate” that would lower the current value of benefits or costs to take place far into the future. In short, the change would make it harder to justify action to reduce greenhouse-gas emissions.

Some administration backers, such as Thomas J. Pyle, who headed the Trump transition team for the Energy Department, want to abolish it altogether because it can vary so dramatically based on the discount rate an analyst uses.

“At the end of the day, the social cost of carbon is an arbitrary metric that has no place in federal rulemaking,” said Pyle, who heads the Institute for Energy Research.

Kreutzer played an important role in shaping and writing the executive order on energy policy that Trump issued Tuesday. The directive dismantled a White House working group on the social cost of carbon and rescinded a variety of Obama-era technical documents on the matter. It said that “when monetizing the value of changes in greenhouse gas emissions resulting from regulations,” agencies should rely on a 2003 guidance that the Office of Management and Budget issued during the George W. Bush administration.

That reference represented a big victory for Kreutzer. The 2003 OMB guidance instructed agencies to calculate the future costs of climate change using 3 percent and 7 percent discount rates. The lower rate makes immediate climate action more compelling and worthwhile; the 7 percent rate minimizes the benefits of taking climate action now.

Other economists and budgeting experts say that the government should use a single rate and that 7 percent is much too high given the nature of future damages as well as economic factors.

University of Chicago economics professor Michael Greenstone, who helped develop the social cost of carbon for the previous administration, said in an email that the 7 percent figure was “just plain outdated” because global interest rates had dropped so much since 2003, and that because “climate change could prove to be highly disruptive,” financial markets would normally dictate a lower rate.

Cass Sunstein, a Harvard Law School professor who was administrator of OMB's Office of Information and Regulatory Affairs during the Obama administration, wrote in a column for Bloomberg News, "In the intergenerational context, there are compelling technical as well as ethical reasons to choose a relatively low rate, so as to avoid treating our children and grandchildren as if they are worthless.

He added that "use of a 7 percent rate would be pretty ridiculous — and should be struck down, in court, as arbitrary."

Washington Post

https://www.washingtonpost.com/news/capital-weather-gang/wp/2017/03/30/the-networks-all-but-ignored-climate-change-last-year-thats-bad-news-for-science/?utm_term=.9594d8b6418c

The networks all but ignored climate change last year. That's bad news for science.

By Angela Fritz 3/30/17, 4:53PM

It's not that there isn't enough climate change news to cover. 2015 was the hottest year on record at that point, the Paris agreement was signed by dozens of nations, and California was in its worst drought in perhaps millennia. But if you get your news from the networks, there's a good chance you didn't know any of this was going on.

Stories about climate change on network news — ABC, NBC, CBS and Fox (the network, not Fox News) — dropped 66 percent, according to [research by Media Matters](#).

If you break it down into actual time spent, network news is devoting a shockingly small number of minutes per year on climate change. It's shocking because, as a recent Gallup poll shows, a majority of Americans are crossing the divide between those concerned about climate change and those who think it's baloney.

In 2015, network news — Sunday shows and evening news — spent 146 minutes on the topic of climate change. In 2016, it was 50 minutes.

Network news devoted 50 minutes to climate change in 2016

By its own description, Media Matters is a “501(c)(3) progressive research and information center dedicated to comprehensively monitoring, analyzing, and correcting conservative misinformation in the U.S. media.” It’s a media fact-checking organization. Most fact-checkers focus on politicians. Media Matters analyzes statements and coverage of the media itself.

It does this because what the media choose to cover is important. In fact, in 1927, the Federal Radio Commission (later the FCC) was created by Congress in part to ensure that radio stations (which transitioned into TV stations) were broadcasting in the public’s interest, whether that be news or entertainment. At one point, there was a rule that said networks had to devote equal time to all political candidates to prevent bias.

Before the airwaves were “deregulated” in 1996 by the Telecommunications Act, Congress saw value in limiting bias on the airwaves. Now, it’s up to the viewers to decide — but they can’t do that if they’re not getting the information in the first place.

This report is important right now, when Congress and the White House actively seek to limit the role of science in policymaking.

On Wednesday, the House Committee on Science, Space and Technology held a hearing to (ostensibly) debate the scientific method. It devolved into finger-pointing, name-calling and one Republican congressman yelling at Democrats and a leading climate researcher. In one down-to-Earth moment, Suzanne Bonamici (D-Ore.) asked the panel of scientists what Congress could do to advance science, “instead of holding this unproductive hearing.”

Later that afternoon, Congress voted to limit which scientific studies the Environmental Protection Agency can use to create regulations. If signed, the law would be entirely subjective — the EPA will be able to use only “the best available science.”

Best according to whom?

In an example of how this “best science” thing would work, EPA Administrator Scott Pruitt defied his own scientists and said no thanks on a rule that would protect children from developmental disorders.

The EPA’s own scientists say the chemical chlorpyrifos, which can cause memory decline in young children, is showing up in our food and water at unsafe levels. “The chemical was banned in 2000 for use in most household settings but today is still used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples,” the New York Times reported Thursday.

Pruitt’s response: We need to be “certain” that the chemical is causing defects before we limit it in our food.

If you have ever taken a fifth-grade science class, you know that there’s no such thing as scientific certainty. You will never hear a scientist say she is “100 percent certain” about anything, because that’s not the way science works. The U.S. judicial system understands this:

There is no common definition across science or within disciplines as to what threshold establishes certainty. Therefore, whether couched as “scientific certainty” or “[discipline] certainty,” the term is idiosyncratic to the witness.

In the case of chlorpyrifos, the expert “witness” is the scientist.

I’m not surprised that the networks don’t want to talk about climate change — it’s a hot-button political issue because politicians made it that way. As it turns out, politicians are inherently the only people who can politicize a subject.

Here’s the truth, though: Despite the lack of coverage in 2016, half the country thinks climate change is caused by human activity and believe it’s a problem. Less than a quarter of our

population think climate change is either not happening or is no big deal.

The media have a responsibility to report the facts. If scientists agree an extreme weather event was made worse by climate change, viewers need to know that, not just because it is true, but because people do think it's a problem. I don't know whom network news and Congress are serving by turning a blind eye to climate change, but according to these poll results, it's not the voters.

Breitbart

<http://www.breitbart.com/big-government/2017/03/30/deep-state-suspected-epa-press-release-prank/>

'Deep State' Suspected In EPA Press Release 'Error'

By Joel Pollak 3/30/17

***The Hill* connects ongoing conflict among staff at the Environmental Protection Agency to a press release on President Trump's executive order on energy independence Tuesday that included a quote slamming the president's new policy.**

The press release included a quote, mistakenly attributed to Sen. Shelley Moore Capito (R-WV), "With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational ... Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime."

In fact, the *Hill* notes, that statement was made by Sen. Tom Carper (D-DE).

The *Hill* cites the "rift between many of the EPA's nonpolitical career employees and the political leaders appointed by Trump" in connection with the press release.

EPA staff reportedly said they had mistakenly released a draft of the statement. However, the agency did not explain why an attack on the president would have been included in any draft of any release.

Last week, the Washington Free Beacon's Adam Kredo reported an ongoing effort by Obama loyalists to sabotage the Trump administration by, among other methods, altering press releases.

"[H]oldovers from the Obama administration are working to undermine the Trump administration's agenda through efforts to alter official communications, a number of administration officials confirmed in conversations with the Washington Free Beacon," Kredo reported.

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Washington Times

<http://www.washingtontimes.com/news/2017/mar/30/epa-issues-press-release-using-democrats-quote-bla/>

Dept. of D'oh! EPA goofs, issues press release slamming Trump's climate actions

By Ben Wolfgang 3/30/17

The Environmental Protection Agency on Thursday sent out a press release touting praise for President Trump's rollback of Obama-era climate-change regulations this week — but the agency accidentally led the email with a blistering quote from a Democratic critic.

The press release includes a quote from Sen. Tom Carper, Delaware Democrat and ranking member on the Senate Environment and Public Works Committee, wrongly attributed to Sen. Shelley Moore Capito, a West Virginia Republican.

The email, titled "What They Are Saying About President Trump's Executive Order on Energy Independence," opens with a complete and total takedown of that order.

"With this executive order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," reads the quote by Mr. Carper but listed as coming from Ms. Capito.

Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime," it continues. "With the world watching, President Trump and [EPA] Administrator [Scott] Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come."

The agency quickly sent out a revised press release correcting the embarrassing error.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

To: So, Katherine[so.katherine@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: McGonagle, Kevin
Sent: Thur 3/30/2017 8:53:57 PM
Subject: RE: OPA Clips 3/30/17

Below: E&E News (4), Reuters, The Hill, Bloomberg, The Hill, E&E News (3), InsideEPA (2), Mashable, E&E News (3), Politico (2), InsideEPA, Washington Examiner, The Blaze (3/29), Politico (2), New York Magazine, The Daily Caller, The Hill, CNN, Mother Jones, Mother Jones (3/29), NPR (3/29), Bloomberg BNA, Politico, The Hill, LA Times, Bloomberg BNA (3), Bloomberg, E&E News (4), Washington Post (2), Huffington Post, Daily Caller, New York Times (3/29), Washington Post (3/29), InsideEPA (3/29), Agri Pulse (3/29), DTN (3/29), Washington Examiner (3/29), AP (2) (3/29), Reuters (2) (3/29), Bloomberg (3/29), The Hill (3/29), Politico (3/29), InsideEPA (3/29), Huffington Post (3/29), Washington Examiner (3/29)

E&E News

<http://www.eenews.net/eenewspm/2017/03/30/stories/1060052375>

Bar opens investigation into Pruitt over emails

By Kevin Bogardus 3/30/17

Not quite two months in as head of U.S. EPA, Administrator Scott Pruitt is under investigation.

The Oklahoma Bar Association said it's opened an inquiry into Pruitt's testimony at his Senate confirmation hearing regarding his use of personal email to conduct official business as Oklahoma attorney general.

"We have on this date opened this matter for investigation and written the attorney asking for a response to the grievance. We will then conduct whatever further investigation we feel is needed," said the letter, which was signed Gina Hendryx, general counsel for the Oklahoma Bar Association.

The letter was sent to University of Oklahoma law professor Kristen van de Biezenbos, who with the Center for Biological Diversity filed a grievance with the state bar, arguing Pruitt violated professional conduct rules by saying that he only used work email for official business as attorney general (E&E News PM, March 21).

Later, emails of Pruitt's were released under open records litigation that showed he had used personal email for work purposes as the state attorney general.

"We are very happy that the bar has taken our grievance seriously and has opened up an investigation into Scott Pruitt," said Amy Atwood, senior attorney with CBD. "Lying to Congress is a serious ethical matter, but we are even more concerned given that Pruitt was using his personal email for official business to communicate with fossil fuel interests."

Pruitt's testimony has come under scrutiny as well from Senate Democrats on the Environment and Public Works Committee. Earlier this month, they asked Pruitt to "correct the record" regarding what he said before the panel on his use of personal email (E&E News PM, March 17).

EPA officials didn't respond to messages from E&E News asking for comment for this story.

John Williams, executive director of the state bar association, told E&E News that this was routine procedure to process the complaint against Pruitt.

"At this point, it's an inquiry," Williams said. "He is being treated just like everyone else, and we're just going through the process."

E&E News

<http://www.eenews.net/eenewspm/2017/03/30/stories/1060052371>

Ex-EPA air chief fears Trump will do long-term damage

By Amanda Reilly 3/30/17

HOLLYWOOD, Calif. — The Obama administration's top air official today defended the former president's climate change agenda and expressed concern that proposed cuts to U.S. EPA would hamstring it long into the future.

On Tuesday, President Trump said the White House would initiate a review of the Clean Power Plan, which was aimed at lowering carbon dioxide emissions from existing power plants, as well as a related rule to lower emissions from new power plants.

Janet McCabe, who was acting air chief of EPA from 2013 until the end of the Obama administration and was closely involved in the shaping of the rules, said she is concerned that

Trump's executive order will upend years of work backed by scientific data and a robust public outreach process.

"I don't think the word 'health' appeared at all," said McCabe of the order. "It's just harder for me to appreciate that these policies are underpinned by a desire to protect public health."

Trump's "energy independence" executive order, which also seeks to undo other Obama administration climate policies, was at the top of everyone's mind today at the American Bar Association's annual spring gathering of environmental lawyers here. The reaction was mixed.

Myron Ebell, a prominent climate change skeptic who led Trump's EPA transition team, maintained that the Clean Air Act was not designed to regulate greenhouse gas emissions, although the Supreme Court has ruled that EPA has the authority to do so.

Ebell, director of the Center for Energy and Environment at the free-market Competitive Enterprise Institute, said the administration has not yet gone far enough to undo the Obama administration's climate change agenda.

"I have a hope that the biggest achievement will be withdrawing the United States from the Paris climate treaty and submitting that treaty to the Senate for its advice and consent," he told the audience of lawyers.

California Attorney General Xavier Becerra (D), on the other hand, today vowed to battle the Trump administration in the courts and the "court of public opinion" to preserve the Clean Power Plan. Becerra is part of a coalition of Democratic state attorneys general that is opposed to the Trump administration's environment and energy agenda.

Becerra, who gave the keynote speech this morning, said the executive order "can't erase" the responsibility the government has to address climate change.

"The Clean Air Act requires the federal government to regulate the largest sources of greenhouse gas emissions," he said. "It's not just that we want it. It's that the law requires it."

Becerra, who until January was in House Democratic leadership, also said he would put up roadblocks to halting the ongoing Clean Power Plan litigation in the U.S. Court of Appeals for the District of Columbia Circuit.

More than two dozen states, as well as dozens of industry entities, challenged the rule in court, arguing that EPA overstepped its authority. The D.C. Circuit in September heard nearly seven hours of oral arguments in the massive litigation over the rule but has yet to issue a ruling.

On Tuesday, the Justice Department filed a motion to put challenges to the rule in abeyance in the court while it decides what to do with the Clean Power Plan (Energywire, March 29).

"They're going to learn something, that the institutions don't just let the gears stop all of a sudden, and so it's going to take some time on unwinding," Becerra predicted. "And we're going

to make sure that they have to unwind a whole lot to make some changes."

McCabe said she expects many of EPA's allies in the court to oppose the Trump administration's motion. The court, though, could still rule on "fundamental questions" regardless of what it ends up doing with the rule, McCabe said.

Those include whether EPA was entitled to issue the rule given that it's already regulating hazardous air pollution emissions from power plants and whether EPA can require power plants to make emissions cuts "beyond the fence line."

"We will have the same parties coming back and making the same arguments again," she said.

McCabe also defended the legality of the plan: "No court has ruled that the Clean Power Plan was illegal to date."

'The gift that keeps on giving'

James Connaughton, who was chairman of the White House Council on Environmental Quality during the George W. Bush administration, said the Obama administration did "the least worst thing they could" in the Clean Power Plan "with the cards they were dealt with" in the Clean Air Act.

The Trump administration, he said, should either completely rescind the rule or issue a rule that only requires power plants to become more efficient in their operations.

He said, though, that the rule will continue to be "the gift that keeps on giving to lawyers, consultants and agency representatives."

Regardless of what the administration does, Connaughton predicted, the United States will exceed President Obama's goal of reducing carbon dioxide emissions.

But McCabe said she is concerned that states — especially conservative states — on their own won't take action to regulate greenhouse gas emissions.

"They don't have the expertise to do it," she said. "They don't have nearly the resources to do it. And there won't be the political will in those states to do that."

For his part, Becerra said California will continue pursuing aggressive emissions reductions.

"He can get rid of that plan. We're still moving forward on clean energy," Becerra said. "While we understand that some federal-state conflict is inevitable, we're moving forward."

While most of the attention this week in the environment and energy world has been on the Clean Power Plan, McCabe said rescinding or revising the rule will not be the most consequential action of the Trump administration.

The former air chief said the president's proposed budget for EPA, which calls for a 31 percent funding cut and a large decrease in the agency's staffing levels, will have more resounding effects.

"It is a lot easier to pull an agency down than it is to build it back up again," she said. "I think that if you want to have lasting effects on public health protection in the country, that is a very easy way to do it."

Connaughton, whose name was floated to lead the Energy Department during the Trump administration, said the most consequential environmental action during the next four years is tax reform, which could help funnel money toward "lower environmental impact" industries.

He also said that innovation, technology and infrastructure would go a long way in addressing domestic and international environmental issues.

"Clean Power Plan's interesting," he said. "But at this point, it's a sideshow."

E&E News

<http://www.eenews.net/eenewspm/2017/03/30/stories/1060052370>

Paris decision coming by May — Spicer

By Robin Bravender 3/30/17

The Trump administration plans to finalize its stance on the Paris climate deal by May, White House spokesman Sean Spicer said today.

"We are currently reviewing issues related to the agreement and expect to have a decision by the time of the G-7 summit, late May-ish if not sooner," Spicer told reporters today, referring to the Group of Seven, a summit of Britain, Canada, France, Germany, Italy, Japan and the United States slated for May 26 and 27 in Italy.

The White House still hasn't determined how to handle the international climate agreement, which wasn't addressed in the executive order on energy that Trump signed earlier this week.

Spicer told reporters yesterday that U.S. participation in the deal was still under discussion within the administration.

The decision not to address the Paris Agreement in the executive order irked some conservatives, who want Trump to act quickly to withdraw from the deal (Greenwire, March 28).

Trump pledged to withdraw from the agreement while on the campaign trail but later said he would keep an open mind, and he's facing pressure from some inside and outside his

administration to stay in the accord (Climatewire, March 30).

E&E News

<http://www.eenews.net/eenewspm/2017/03/30/stories/1060052369>

Dems mount legislative opposition to executive order

By Hannah Hoss 3/30/17

As promised, Democrats in Congress are pushing against President Trump's executive order that wipes out much of the Obama administration's effort to address climate change.

Today, 36 House Democrats led by Reps. Brad Schneider of Illinois, Doris Matsui of California, Paul Tonko of New York and Charlie Crist of Florida introduced a bill to overturn the "Promoting Energy Independence and Economic Growth" order.

Dubbed the "Congressional Leadership in Mitigating Administration Threats to the Earth Act," or "CLIMATE Act," H.R. 1812 declares the president's document null and void and would prohibit federal funds for implementing, administering or enforcing it.

More than 30 Democratic senators, led by Colorado's Michael Bennet, lined up yesterday behind companion legislation.

They announced plans to do so Tuesday, the day Trump signed the order, while predicting the real battle over efforts to rewrite Obama-era rules would play out in court (E&E Daily, March 29).

Democratic senators from the West have taken a leading role in the opposition to Trump's energy and environment actions.

On Tuesday, they wrote Trump a letter explaining the job benefits of the clean energy economy to their region.

Republicans in the Western Caucus, meanwhile, praised Trump for ending the "war on coal" by lifting regulations on the industry.

Reuters

<http://www.reuters.com/article/us-usa-court-gorsuch-climate-idUSKBN1712X6>

High court pick could help decide fate of Trump's climate policy

By Lawrence Hurley 3/30/17, 3:17PM

WASHINGTON Donald Trump's Supreme Court nominee could help decide the fate of his moves to undo climate-related U.S. regulations, but legal experts said Neil Gorsuch's judicial record makes it hard to predict whether as a justice he would back a sweeping rollback.

If confirmed to the lifetime job by the Senate, the Colorado-based federal appeals court judge would restore the court's 5-4 conservative majority. The Senate is planning an April 7 confirmation vote although many Democrats are fighting to block Gorsuch.

On the court, Gorsuch could become a pivotal vote on the Republican president's deregulation agenda, along with fellow conservative Anthony Kennedy, who sometimes joins the court's four liberals in close cases.

That agenda includes Trump's effort to kill Democratic former President Barack Obama's so-called Clean Power Plan, blocked by the high court last year, aimed at reducing climate-warming carbon emissions from mainly coal-fired power plants. Trump on Tuesday signed an executive order kicking off a lengthy review process that environmental groups and Democratic-governed U.S. states have promised to challenge in court.

Gorsuch's views on issues related to climate change are unclear. His mother headed the U.S. Environmental Protection Agency under Republican former President Ronald Reagan for two years in the 1980s.

Gorsuch was not asked about climate issues during his Senate Judiciary Committee confirmation hearing last week. In his 11 years as a judge, the only major ruling touching upon climate policy came in 2015 when he was on a three-judge panel that upheld a Colorado measure requiring power generators to ensure a fifth of their electricity came from renewable sources.

A 2016 case on federal agency power is potentially more instructive on how he might approach broad moves to slash current regulation, according to experts.

In that case, Gorsuch questioned a 1984 Supreme Court precedent giving federal agencies broad deference to interpret laws. Gorsuch called the doctrine, enshrined in the *Chevron v. Natural Resource Defense Council* ruling, an "elephant in the room" that concentrates federal power "in a way that seems more than a little difficult to square with the Constitution."

Questions remain over how that approach would manifest itself if applied to efforts by Trump's EPA to weaken or rescind existing agency regulations on fighting climate change. Some environmental lawyers say it could mean Gorsuch would be skeptical of any big changes at the agency level. The EPA under Obama compiled detailed scientific data to support its efforts to curb carbon emissions.

"That could hamper the Trump administration," said Jonathan Adler, a conservative law professor at Case Western Reserve University School of Law in Cleveland.

Sean Donahue, a lawyer who represents environmental groups, agreed, saying if the EPA were to "advance fancy interpretive footwork to try to make greenhouse gases not a Clean Air Act pollutant," the administration may not get the deference it wants.

The extent to which the U.S. Clean Air Act, the law that tackles air pollution, applies to carbon emissions is heavily contested in the courts. The Supreme Court, in the landmark 2007 decision *Massachusetts v. EPA*, held that carbon is a pollutant that could be subject to regulation under the law.

In a 2014 case, the court largely upheld the Obama administration's first batch of greenhouse gas regulations.

Environmental groups including the Sierra Club have said they are ready to pounce if they see signs that Trump's EPA, headed by fossil fuels industry ally Scott Pruitt, is ignoring science in making climate-related regulatory changes.

"I think the bottom line is that we hope any anti-regulatory rule-making should be so unscientific ... almost any federal judge should see through the Trump administration maneuvering," said Pat Gallagher, a Sierra Club lawyer.

The Hill

- <http://thehill.com/policy/energy-environment/326561-trump-to-decide-whether-to-stay-paris-climate-pact-by-late-may>

Trump to decide by late May whether to stay in Paris climate pact

By Timothy Cama, 3/30/17, 2:22PM

President Trump is planning to decide by late May on whether the U.S. should stay in the Paris climate change agreement, the White House announced Thursday.

White House press secretary Sean Spicer told reporters at his daily briefing that White House aides "are currently reviewing issues related to the agreement."

The administration expects to announce a final decision by May 26 — the beginning of a conference in Italy for the Group of Seven (G7) industrialized countries — or even sooner, Spicer said.

The president promised last year on the campaign trail to "cancel" the 2015 agreement, which former President Barack Obama helped formulate. The pact consists of non-binding greenhouse gas emissions cuts agreed to by nearly 200 nations.

Trump has been under pressure from conservatives, top White House adviser Stephen Bannon and others to fulfill his campaign promise and formally exit the agreement.

But others close to the president want to maintain the United States' position in the pact, even if

Trump doesn't want to abide by the 26 percent to 28 percent emissions cut that Obama promised.

Secretary of State Rex Tillerson said it's valuable from a diplomatic perspective to stay in the accord, and Trump's daughter Ivanka Trump and her husband Jared Kushner — both close advisers — agree.

Trump's wide-ranging executive order signed Tuesday started the process to roll back nearly all of Obama's climate agenda, but did not mention the Paris agreement. Still, the order makes it unlikely that the nation could live up to Obama's commitment.

The pact sets out a four-year process for exiting the agreement. But some conservatives have suggested pulling the U.S. out of the United Nations' Framework Convention on Climate Change, a much larger agency, which would also have the effect of pulling out of Paris.

Bloomberg

<https://www.bloomberg.com/politics/articles/2017-03-30/epa-email-error-miscasts-coal-country-senator-as-trump-critic>

EPA Email Error Miscasts Coal Country Senator as Trump Critic

By Jennifer Dlouhy 3/30/17, 12:06PM

When the Environmental Protection Agency sent out a roundup of quotes praising President Donald Trump's move to dismantle Obama-era climate policies, the first comment stuck out.

"President Trump has chosen to recklessly bury his head in the sand" by reversing regulations tackling "the greatest environmental challenge of our lifetime," Shelley Moore Capito, a Republican senator from West Virginia coal country, was quoted in the news release as saying.

The only problem? Capito never said any such thing.

Instead, the quote actually came from a Democratic senator from Delaware, Tom Carper, who hasn't been shy about criticizing Trump for trying to dismantle his predecessor's efforts to address climate change. Trump has called climate change a "hoax" and signed an order Tuesday to begin rescinding a series of EPA rules that would curb carbon-dioxide emissions.

EPA spokesman John Konkus swiftly said the whole thing was an "unfortunate" error -- a case of an internal draft "mistakenly sent with a quote that belonged to Senator Carper but was wrongly attributed to Senator Capito, whom we originally meant to quote." About an hour and a half after the first release went out, the EPA sent out a new corrected version noting that an earlier draft "misattributed a quote from another senator to Senator Capito."

Staff Resistance

Still, the incident was the latest miscue as the Trump administration tries to reorient the nation's environmental policies, sometimes over the objections of career staff. The account for the Badlands National Park Service tweeted out messages highlighting the growing concentration of carbon dioxide in the atmosphere soon after Trump's inauguration. The missives were later deleted and attributed to a former employee who still had the account's credentials.

There have been other examples. The National Oceanic and Atmospheric Administration published a "Wisdom Wednesday" post on its Facebook page with facts about climate change within a week of Trump's swearing-in. It was deleted the same day. And the Twitter account for the Golden Gate National Recreation Area published a visualization of global temperature change that vividly highlights the recent escalation.

Career civil servants and outsiders also have started up new social media accounts under names such as "Rogue NASA" and "altEPA" to provide a running commentary against administration actions.

Career civil servants and outsiders also have started up new social media accounts under names such as "Rogue NASA" and "altEPA" to provide a running commentary against administration actions.

Some Trump supporters have complained that "a deep state" of Obama holdovers is embedded throughout the federal bureaucracy trying to undercut the president.

"There are people that burrow into the government after an administration," White House spokesman Sean Spicer said when asked about the phenomenon on March 21. It's "no huge secret" that of course, "there's people after eight years of Obama that found their way into government," Spicer added, without addressing their motivations.

Environmental activists who oppose the new administration's policies, said acts of bureaucratic resistance -- big and small -- are an important check on Trump and EPA Administrator Scott Pruitt.

"It's vitally important for EPA staff and administrators to continue to work to protect communities and the planet from poison and destruction. We hope they are able to use all the tools available to them to resist Scott Pruitt and Donald Trump's attempts to erase the work and legacy of their office," said Travis Nichols, a spokesman for Greenpeace. "In many cases, the EPA is the only thing standing between a community and destruction."

The initial message misspelled Capito's first name, and it would be highly unusual to see Democrat Carper quoted alongside the likes of the American Petroleum Institute, the American Coalition for Clean Coal Electricity and the conservative Energy and Environment Legal Institute.

Capito's real quote, for the record, commended Trump for rolling back "one of the most harmful acts of overreach by the Obama administration."

"Stopping this disastrous plan will preserve America's coal industry, expand our manufacturing renaissance that is reliant upon affordable energy, and protect American families from unprecedented hikes in their electric bills," she said.

The Hill

<http://thehill.com/policy/energy-environment/326538-epa-mistakenly-criticizes-trumps-executive-order>

EPA mistakenly criticizes Trump executive order

By Timothy Cama 3/30/17, 12:51PM

The Environmental Protection Agency (EPA) mistakenly sent a news release Thursday that criticized President Trump's executive order to roll back climate change policies.

The error came when the EPA tried to quote Sen. Shelley Moore Capito (R-W.Va.) in a release highlighting praise of Trump's Tuesday order the start undoing former President Obama's climate actions.

"With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," the release quoted Capito as saying, the first quote in a list of over a dozen statements from Republicans, fossil fuel interests and others praising Trump.

"Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime," it continued.

That statement actually came from. Sen. Tom Carper (Del.), the top Democrat on the Environment and Public Works Committee and a harsh critic of Trump's environmental agenda.

"Sen. Carper is happy to lend his words to a good cause," a Carper spokeswoman said.

Capito, by contrast, cheered Trump's order.

"Stopping this disastrous plan will preserve America's coal industry, expand our manufacturing renaissance that is reliant upon affordable energy, and protect American families from unprecedented hikes in their electric bills," Capito said. Capito attended the signing ceremony Tuesday, and Trump thanked her in his speech.

The EPA sent out a corrected version of the release later Thursday morning, with Capito's actual quote.

EPA spokesman John Konkus said the agency's press office accidentally sent a draft version of

the release.

“We apologize for the error and are making sure that our process is improved as we build our team,” he said.

The mix-up came amid a rift between a large portion of the EPA’s career, non-political workforce and political leaders in the Trump administration, including EPA Administrator Scott Pruitt.

EPA employees have made their objections known, including through a campaign to lobby the Senate against Pruitt’s confirmation.

An EPA scientist made his concerns public in a letter to the New York Times published Wednesday. “I am very saddened by what I see these days under an E.P.A. administrator whose role it is to dismantle the agency that he leads,” wrote Michael Kravitz, who works in Cincinnati.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052357>

EPA about-faces on banning chemical it once called a risk

By Ariel Wittenberg 3/30/17

U.S. EPA will not outlaw a commonly used pesticide, contradicting evidence the agency put forward last year that the chemical poses a risk to human health.

The indoors use of chlorpyrifos, once commonly used in residential buildings and in home lawns and gardens, was banned in 2000. But agricultural uses for the pesticide, also known as Lorsban, remained, with roughly 55 percent of apples and 45 percent of broccoli and walnuts grown in the United States treated with the chemical.

The Obama EPA proposed banning its use on food in 2015 in response to a petition filed by the Natural Resources Defense Council and Pesticide Action Network North America.

In preparing to ban chlorpyrifos, EPA published numerous health assessments on the chemical. The most recent one, from November 2016, found that current uses of the chemical pose dietary and drinking water risks to humans, especially children.

The agency found that workers who mix, load and apply the pesticides are at risk from the chemical. It also found that currently approved uses of the pesticide could contaminate nearby drinking water, while chemical residues on produce exceed safety standards set by the Federal Food, Drug and Cosmetic Act.

EPA Administrator Scott Pruitt declined to finalize the ban yesterday, rejecting the environmental groups' petition.

Pruitt framed the decision as an economic one, noting that "thousands of American farms" rely on chlorpyrifos.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," he said in a statement.

EPA now argues that its proposal to ban use of the pesticide on crops "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

That point echoes one made by farm groups last year, which argued in a letter to then-EPA Administrator Gina McCarthy that the science is inconclusive on whether chlorpyrifos causes harm to humans (*E&E News PM*, April 13, 2016).

"EPA also is required to review the best available data. In the process involving chlorpyrifos, the Agency has fallen woefully short of statutory requirements and as stakeholders we expect a consistent and scientific approach based on the law," the groups wrote.

By contrast, groups like the NRDC have argued that exposure to relatively small amounts of the chemical early in life can lead to learning disabilities such as autism and attention deficit hyperactivity disorder.

NRDC senior scientist Miriam Rotkin-Ellman in a statement decried the administration's decision and defended the evidence that the pesticide harms human health.

"The Trump administration has decided to put the needs of chemical corporations before children's health," she said. "We will see Administrator Pruitt in court and require him to provide real evidence, not just 'alternative facts.'"

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052366>

Agency press release blasts Trump by mistake

By Kevin Bogardus 3/30/17

For nearly two hours, President Trump had a new critic: his own agency, U.S. EPA.

Shortly past 9 a.m. this morning, the agency sent out a press release touting praise for the executive order that Trump signed Tuesday, which rolls back several environmental rules, including the Clean Power Plan.

At the top of that release was a quote attributed to Sen. Shelley Moore Capito (R-W.Va.), one of EPA's fiercest critics. Yet instead of praising the president, Capito blasted Trump, according to

the release.

"With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," Capito said.

Except she didn't. The quote came from Sen. Tom Carper of Delaware, ranking Democrat on the Senate Environment and Public Works Committee, who was responding to the president's order.

Around 10:45 a.m., EPA sent out a new press release with "CORRECTION" in its subject line.

Capito's reaction to Trump's order in the new release: "President Trump kept his promise to roll back one of the most harmful acts of overreach by the Obama administration — the so-called Clean Power Plan. If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact."

Capito was in the audience at EPA headquarters for Trump's signing of the order, which he said would help revive the coal industry (*E&E News PM*, March 28).

Asked for Capito's reaction to the mistaken agency press release, a spokeswoman for the senator emailed E&E News Capito's correct statement on the order. Carper's office shared a joke in response to the mishap.

"Senator Carper doesn't mind lending his words to a good cause," said a Carper spokeswoman.

An EPA spokesman said the agency goofed with its original press release and apologized for the mistake.

"An internal draft was mistakenly sent with a quote that belonged to Senator Carper but was wrongly attributed to Senator Capito, whom we originally meant to quote," said EPA spokesman John Konkus.

"We apologize for the error and are making sure that our process is improved as we build our team," he said.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052361>

‘I walk among my colleagues like a zombie in a bad dream’

By Kevin Bogardus 3/30/17

A U.S. EPA scientist said he has been "very saddened" by what he has seen so far at the agency under the Trump administration.

In a three-paragraph [letter](#) sent to the editor of *The New York Times* and published yesterday, Michael Kravitz said he is an environmental scientist at EPA, "where I have enjoyed my work

helping to improve our environment."

"But I am very saddened by what I see these days under an E.P.A. administrator whose role it is to dismantle the agency that he leads," said Kravitz, referring to Scott Pruitt, who was confirmed as EPA chief last month. "I walk among my colleagues like a zombie in a bad dream; they also seem dazed."

In a phone interview with E&E News, Kravitz confirmed that he had written the letter.

"I expressed my opinion, and that's it," Kravitz told E&E News, declining to comment further.

Kravitz works in EPA's Cincinnati office. He is listed on the agency's website as the director of EPA's Ecological Risk Assessment Support Center, which addresses questions on risks surrounding hazardous waste sites, and has helped author some scientific papers.

In his letter, Kravitz said the agency's weekly newsletter has articles about flower shows and photo contests rather than environmental protection.

"Our president comes to the E.P.A. to sign an executive order withdrawing the Clean Power Plan and other environmental policies, and the audience applauds," Kravitz wrote. "I hope the nightmare ends soon."

Amid great fanfare, President Trump visited the agency for the first time earlier this week to sign an executive order rolling back several environmental rules, promising to revive the coal industry (*E&E News PM*, March 28). That event did not go over well with career employees who have been angered by Trump's targeting the agency's work (*E&E Daily*, March 28).

EPA press officials didn't respond to messages from E&E News asking for comment for this story.

InsideEPA

<https://insideepa.com/daily-news/epa-reversal-pesticide-ban-signals-shift-away-using-human-data>

EPA Reversal Of Pesticide Ban Signals Shift Away From Using Human Data

By Dave Reynolds 3/30/17

EPA is reversing an Obama administration proposed ban on the commonly-used insecticide chlorpyrifos after finding significant uncertainty in the human exposure data used for the ban, pushing back on an appellate court's power to compel a quick review of the data and signaling a shift away from using it in other pesticide decisions.

In a March 29 order, EPA Administrator Scott Pruitt formally reverses the Obama EPA's October 2015 proposed ban of chlorpyrifos, and denies environmental groups' long-standing petition to no longer allow use of the substance on food to protect against potential neurodevelopmental risks to children.

The Obama EPA proposed the ban under pressure from the U.S. Court of Appeals for the 9th Circuit in long-running litigation aiming to force a deadline for a decision on a ban.

But Pruitt says use of epidemiological data in pesticide reviews is an area of significant scientific uncertainty. He also argues in the order that the court cannot compel the agency to act to expedite its Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) registration review of the substance ahead of a statutory deadline in 2022.

“While EPA acknowledges its obligation to respond to the Petition as required by the court, the court's order does not and cannot compel EPA to complete the registration review of chlorpyrifos in advance of the October 1, 2022 deadline” under FIFRA,” Pruitt says. “Although past EPA administrations had chosen to attempt to complete that review several years in advance of the statutory deadline (and respond to the Petition on the same time frame), it has turned out that it is not possible to fully address these issues early in the registration review period.”

The decision not only scraps the Obama EPA's proposed ban on chlorpyrifos but also suggests that the Trump EPA will shift away from consideration of human epidemiological data in other pesticide reviews.

That is a win for the pesticide industry which has opposed some uses of that data, and recently said it would seek a public statement that EPA will adhere to FIFRA in pesticide reviews, after the industry clashed with the Obama EPA over reviews of commonly-used but controversial pesticides such as chlorpyrifos.

For example, the pesticide industry group CropLife America lodged a petition with the agency in fall 2016 faulting what it called “significant inconsistency” in EPA's use of human data in pesticide reviews. Industry is expected to welcome the decision to reverse the chlorpyrifos ban, as well as the critical comments on epidemiological data.

But environmental groups who sued EPA seeking a response to their 2007 petition for EPA to ban chlorpyrifos contend Pruitt's reversal violates federal law, and pledge to continue pursuing the litigation.

“EPA’s refusal to ban this dangerous pesticide is unconscionable,” says Earthjustice's Patti Goldman, the attorney in the case. “EPA is defying its legal obligation to protect children from unsafe pesticides. We will be going back and asking the court to order EPA to take action now, rather than in 5 more years.”

Jim Jones, head of the Obama EPA's toxics office for five years, also faulted the decision, telling the New York Times in a March 29 article, “They are ignoring the science that is pretty solid” on chlorpyrifos' risks.

Chlorpyrifos Petition

The Natural Resources Defense Council and Pesticide Action Network North America petitioned EPA in 2007 to ban chlorpyrifos to prevent potential neurodevelopmental risks to children.

In 2014, they filed a deadline suit with the 9th Circuit, and a three-judge panel of the court agreed with their assertions that EPA's delay in answering the years-old petition has been "egregious."

Under pressure of a court-ordered deadline, EPA in October 2015 proposed revoking all tolerances for chlorpyrifos, essentially banning use of the substance on food, despite having not yet completed analysis needed to support that decision. The court later granted the Obama EPA one final extension, requiring the agency to issue a final response to the petition by March 31 this year.

EPA's chlorpyrifos review has been complicated by scientific uncertainty surrounding use of epidemiological studies in pesticide review, given that EPA pesticide reviews have traditionally been based on animal toxicology studies.

In the order, Pruitt says three Scientific Advisory Panels have offered conflicting recommendations on how or whether to consider epidemiological data in pesticide reviews, and have called for additional study.

“While industry and public interest groups on both sides of this issue can debate what the recommendations mean and which recommendations should be followed, one thing should be clear to all persons following this issue: the science on this question is not resolved and would likely benefit from additional inquiry,” the order says.

EPA says interested parties may file objections to the agency's petition denial within 60 days of the order's upcoming publication in the *Federal Register*. But EPA says the decision is a final adjudication, not a rule, and so does not require public comment prior to taking effect.

Pruitt's decision that epidemiological data suggesting chlorpyrifos poses a neurodevelopmental risk requires further review could also affect EPA's reviews of at least seven other active ingredients that are also in the organophosphate class, and potentially other pesticides as well.

While environmentalists and farmworker groups have called for EPA to consider available epidemiological data in pesticide reviews, pesticide producers repeatedly pressed the Obama EPA to craft a transparent framework for evaluating the human data, noting a 2011 Obama administration directive for agencies to use best available science.

CropLife, the pesticide industry group, in December 2010 petitioned EPA seeking a rule establishing criteria for evaluating epidemiological studies for pesticide reviews.

EPA denied the petition in April 2011, and CropLife lodged its “significant inconsistency” petition with EPA last fall that specifically opposed EPA's use of a controversial Columbia University study of human exposures to chlorpyrifos to support the agency's October 2015 proposed ban of the commonly-used pesticide, arguing it violates FIFRA and the Food Quality Protection Act. -- *Dave Reynolds* (dreynolds@iwpnews.com)

InsideEPA

<https://insideepa.com/daily-news/cleanup-resumes-high-profile-lead-site-citizens-seek-broad-effort>

Cleanup Resumes At High-Profile Lead Site, As Citizens Seek Broad Effort

By Suzanne Yohannan 3/30/17

Cleanup is resuming at a high-profile lead-contaminated site in East Chicago, IN, after EPA reached a long-negotiated administrative settlement with potentially responsible parties (PRPs), even as citizens are separately continuing to press for inclusion in a separate judicial consent decree in order to broaden the agency's response to the various sources of lead exposures to the community.

EPA March 20 announced an agreement with several PRPs at the U.S. Smelter and Lead Refinery, Inc. Superfund site, commonly known as the USS Lead Superfund site, in East Chicago.

The site has drawn national attention and comparisons to Flint, MI, -- where EPA and Michigan officials have drawn extensive criticism over lead in the city's drinking water -- after East Chicago officials gave notice in 2016 they were requiring demolition of a public housing project on a portion of the site upon learning from EPA of high residential lead levels.

Under the just-announced agreement, the PRPs will fund \$16 million of removal actions to be performed by EPA in two of the three zones at the site, according to a March 20 EPA press release. The PRPs are Atlantic Richfield Company, DuPont, Chemours, and United States Metals Refining Company.

The accord adds to a \$26 million consent decree signed in 2014 for work at the site. EPA Administrator Scott Pruitt says in the release that he and Indiana Gov. Eric Holcomb (R) "agree that protecting the well-being of the people who live on the USS Lead Superfund site is crucial." He adds, "EPA is accelerating the cleanup to keep residents safe in their homes and neighborhoods."

At the site, some properties tested at levels as high as 27,100 parts per million for lead, more than 60 times the hazard level, the citizen litigants point out.

Under the agreement, in zone 2 EPA will remove contaminated soil at about 72 properties. EPA has labeled these as priorities due to high levels of lead or arsenic or because the residences include pregnant women or children who are more sensitive to exposure risks, EPA says. For zone 3, EPA will clean up yards at approximately 120 properties, it says.

In both zones, EPA plans also "to test inside each home and conduct thorough cleanings as needed," it says.

Work in zone 1 is currently on hold until the city decides the future of the property, EPA says. In that zone, high levels of lead have prompted East Chicago officials to call for demolishing a public housing project on the land and relocating residents -- something for which the state of Indiana, according to recent news reports, has secured funding.

Outstanding Issues

Law professors who are representing East Chicago residents seeking to intervene in the 2014 consent decree say in a written statement to *Inside EPA* that they "are glad EPA has recovered more money from the responsible parties to fund the work that it has committed to doing" at the site and say they hope the agency will quickly address soil and indoor contamination.

At the same time, they say many other issues remain outstanding, "including contaminated drinking water, the need for committed funding for long-term remediation of hundreds of properties, and the changed future use for the portion of the site where public housing currently sits."

The site gained national attention last May after the agency informed East Chicago officials of high residential lead levels years after the site was placed on the National Priorities List in 2009 and despite multiple requests for information that officials say were ignored.

The residents, represented by two university law clinics, have been seeking to intervene in the 2014 consent decree, in an attempt to push EPA to recognize the various sources of lead that can burden an environmental justice (EJ) community. The citizens want EPA to more broadly address cumulative impacts for lead at the site.

If the litigation is successful, it could test how EPA factors in EJ and cumulative exposures at Superfund sites.

But the Justice Department (DOJ) in response has fought the residents' intervention request. Last December, DOJ in a legal brief in the case sought dismissal of the citizens' motion, saying the citizens fail to meet the legal prerequisites to intervene and, even if those were met, would be barred from suing under the Superfund law's prohibition on pre-enforcement judicial review of cleanup decisions.

The law professors say their motion to intervene is pending "and relevant to future activities at the site."

Environmental and community groups also more recently petitioned EPA to use its Safe Drinking Water Act authority to take emergency action at the site to ensure citizens have safe drinking water, responding to EPA's recent conclusion that there is system-wide lead contamination at the site. EPA found that more than 40 percent of homes tested at the site have elevated lead levels in drinking water caused by lead service lines and insufficient corrosion control treatment in the water system. -- *Suzanne Yohannan* (syohannan@iwpnews.com)

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Mashable

<http://mashable.com/2017/03/30/epa-press-release-mixup-capito-carper-climate/#b8zqfD2z4OqC>

EPA mistakenly tells the truth about Trump's climate plans

By Andrew Freedman 3/30/17

On Thursday morning, the Environmental Protection Agency sent out a press release containing praise for President Donald Trump's executive order that rolls back Obama-era climate change rules.

But the agency's press office made an obvious mistake in the first paragraph, which included

harshly critical comments attributed to West Virginia Sen. Shelley Moore Capito, a Republican coal booster and prominent Trump supporter.

The quote, falsely attributed to Capito, actually belonged to Delaware Sen. Tom Carper, a Democrat.

Yet Carper's statement was far closer to the truth of what the Trump administration did when it ordered the EPA to begin the process of dismantling key greenhouse gas emissions reduction programs and other policies aimed at reducing harmful pollution.

The release quoted Capito as saying: "President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives... is not just irresponsible — it is irrational."

Doesn't exactly sound like praise, does it?

The statement went on to say that Trump's executive order goes against the "clear science" on climate change.

In reality, Trump, along with EPA chief Scott Pruitt, denies the mainstream science on climate change, and has called the exhaustively documented phenomenon a "hoax."

The EPA press office then corrected the statement, noting that it got the two senators' statements mixed up, as one does when their views and party are diametrically opposed to one another.

The mistake was especially strange because Capito had been singled out for praise during the signing ceremony at the EPA on Tuesday, which brought coal miners to the agency that wrote the climate policies Trump is trying to erase.

Capito's actual statement is far more supportive: "If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact," she said.

The EPA press shop apologized for the mixup. "We apologize for the error and are making sure that our process is improved as we build out our team," the statement said.

The Trump administration has proposed gutting the EPA's budget while eviscerating its ability to regulate carbon dioxide and methane emissions that are causing global warming. Huge cuts would hit the agency's science programs in particular.

Given the hostility to Pruitt within the agency, it's possible (though not likely) that the press release on Thursday was not a mixup, but rather an act of civil disobedience.

If so, more power to the bureaucrat who pulled it off.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052364>

House approves bill to overhaul science Advisory Board

By Sean Reilly 3/30/17

Legislation to revamp the membership of a key U.S. EPA advisory panel passed the House this morning, one day after the approval of a bill to limit how the agency uses science.

The "EPA Science Advisory Board Reform Act," [H.R. 1431](#), cleared the House by a 229-193 margin. The vote closely followed party lines, with two Democrats voting yes and five Republicans opposed after a floor debate that didn't fill the allotted hour. Similar versions of the measure passed the House in 2014 and 2015, only to die in the Senate following Obama administration veto threats.

While President Trump is likely to be more receptive, continued Democratic opposition in the Senate could make it difficult for either measure to overcome the 60-vote hurdle needed to pass any contentious legislation.

Among other features, H.R. 1431 would require at least 10 percent of EPA's Science Advisory Board (SAB) members to come from state, local and tribal governments, allow industry representatives with a stake in the board's work to serve as long as any conflicts of interest are disclosed, but bar anyone currently receiving EPA grant funding. Board members would also have to undergo a "cooling-off" period under which they could not apply for EPA research funds or contracts for three years after leaving the panel. In addition, the board would have to solicit and respond to public comments on topics under review.

The legislation "ensures the best experts are free to undertake a balanced and open review of regulatory science," Rep. Frank Lucas (R-Okla.), the lead sponsor and vice chairman of the Science, Space and Technology Committee, said in opening today's debate. The fact that members may receive EPA funding creates at least the appearance of a conflict of interest, Lucas said, adding that some have taken explicit stands on issues — such as hydraulic fracturing — on which they're providing advice.

But Rep. Eddie Bernice Johnson of Texas, the Science panel's top Democrat, warned the measure was designed to "throw sand in the gears" of the advisory board process to the benefit of corporate interests. Not only would the measure limit the input of scientists, Johnson said, but it would "restrict the ability of the board to respond to important questions and increase the influence of industry in shaping EPA policy."

Created in 1978, the board is charged with offering advice to EPA as needed. More specifically, it's also supposed to review "the quality and relevance" of the scientific and technical information used by the agency, according to its website. The panel's 47 current members mostly come from academia; their ongoing work includes "economy-wide modeling of the benefits and costs of environmental regulation" and developing an assessment framework for "biogenic carbon dioxide emissions from stationary sources."

Existing law only calls for SAB members to be qualified "by education, training, and experience to evaluate scientific and technical information on matters referred to the board." Members are appointed by the EPA administrator, meaning that recently installed chief Scott Pruitt will have considerable freedom to reshape the board on his own.

Yesterday, the House approved H.R. 1430, which would bar EPA from moving ahead with new regulations drawing on science that is not "transparent or reproducible" (*E&E Daily*, March 30).

Both bills moved through the House the same week that Trump effectively dismissed mainstream climate science with the official launch of efforts to roll back the Clean Power Plan and other Obama administration efforts to curb greenhouse gas emissions.

"Less science, more pollution. That's, unbelievably, the Republican plan," Rep. Jan Schakowsky (D-Ill.) said this morning.

But to Rep. Clay Higgins (R-La.), enactment of the SAB bill would mark a welcome change from a status quo that allows EPA to set forth "ideological, biased and non-science-based rules and regulations."

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052358>

Oil lobbyist to be agency's Hill Liaison

By Kevin Bogardus 3/30/17

An oil and gas lobbyist is joining U.S. EPA as associate administrator for congressional and intergovernmental relations, according to sources.

Troy Lyons, manager of federal government affairs at Hess Corp., is expected to start next week as EPA's liaison with Congress as well as state and local governments. It's a senior leadership position that takes on even greater importance now, considering President Trump's proposed deep budget cuts for the agency that are not sitting well with several lawmakers.

Lyons spent nearly two years at Hess as a federal government affairs manager, according to his LinkedIn profile. Before that, he worked at another oil and gas giant, BP America Inc., for more than three years.

Disclosure records filed with the Senate show that he was registered to lobby for both companies, including on issues involving EPA.

Last year, Lyons, on behalf of Hess, lobbied Congress on the Bureau of Land Management and EPA's methane regulations. In 2015 — his last year at BP — Lyons was one of several lobbyists at the company listed as working on legislation dealing with EPA's ozone rules and the renewable fuel standard.

Lyons has Capitol Hill experience, as well. He served as an aide to both former Sens. Kay Bailey Hutchison (R-Texas) and George Allen (R-Va.).

In addition, he worked in the George W. Bush administration at the Small Business

Administration.

Lyons graduated from Randolph-Macon College with a bachelor's degree in political science and speech communication.

Other Hess officials have joined the Trump administration. Earlier this month, Drew Maloney, formerly vice president of global government and external affairs for the company, was picked by the president to lead congressional relations at the Treasury Department (*Greenwire*, March 15).

Lobbyists for energy interests have made inroads with Trump. Michael Catanzaro joined the White House as a top energy adviser while Andrew Wheeler is expected to be picked as EPA's next deputy administrator.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052359>

States settle with automaker, hoping to set 'precedent'

By Camille von Kaenel 3/30/17

Volkswagen AG has agreed to pay \$157.45 million to 10 U.S. states to settle environmental claims over its emissions cheating.

Since the revelation that its diesel cars polluted more than regulations allowed, the automaker has agreed to spend up to \$25 billion in the United States to buy back faulty vehicles and for civil and criminal settlements with drivers, regulators, states and dealers. While the majority of claims have been resolved, the automaker is still involved in several ongoing lawsuits.

The agreement announced today covers Connecticut, Delaware, Maine, Massachusetts, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington.

The states, called Section 177 states, have signed onto California's vehicle emissions rules allowed by a special Clean Air Act waiver that the Trump administration may try to revoke. Most have strict requirements for electric vehicle sales. The settlement marks the first time the states have secured environmental penalties from an automaker under the state emissions rules.

"Setting this precedent is particularly vital now, when President Trump has vowed to defund federal environmental enforcement and undo federal environmental protections, which would leave states like New York and California as the first line of defense for the environment," said a statement from the office of New York Attorney General Eric Schneiderman (D). "New York will continue to enforce the tough auto emission and greenhouse gas standards established by California, and intends to oppose any effort by the federal government to roll back EPA emission standards currently in place."

Under the agreement, Volkswagen must provide three electric car models, including two electric SUVs, by 2020 in the states, effectively tripling its offering. The automaker first made that

commitment to California in a separate settlement (*Climatewire*, Dec. 21, 2016). The \$157 million in environmental penalties will be split among the states.

Volkswagen said the agreement "avoids further prolonged and costly litigation as Volkswagen continues to work to earn back the trust of its customers, regulators and the public."

The automaker previously reached a \$603 million agreement with 44 states for separate environmental and consumer claims.

This month, the automaker pleaded guilty to criminal charges including fraud, obstruction of justice and falsifying statements as part of a \$4.3 billion settlement reached with the Justice Department.

Last year, it finalized a \$14.7 billion settlement with drivers and regulators that included investments in electric vehicle charging and mitigating nitrogen oxides pollution from old diesel engines. Conservative critics have sought to have Trump's EPA renegotiate that settlement, calling it an effort to promote electric vehicles that sidesteps Congress (*Climatewire*, March 27).

Politico

<http://www.politico.com/agenda/story/2017/03/the-hidden-impact-of-trumps-energy-executive-order-000384>

The hidden impact of Trump's energy executive order

By Danny Vinik 3/30/17, 1:31PM

When President Donald Trump signed his executive order on climate change Tuesday, it was the rollback of Barack Obama's signature Clean Power Plan that dominated headlines.

But to energy lawyers, a different section of the order stood out—one that so far has received little attention, but could weaken every climate-related regulation produced by the government. Trump's order rewrites the rules for measuring the "social cost of carbon," the crucial measuring stick that tells the government whether climate regulations are cost-effective or not.

Cost-benefit analysis is baked into nearly every new federal regulation, giving the White House both ammunition against judicial challenges and a way to sell the rules to the public. When it comes to carbon pollution, it's particularly hard to determine what the long-term costs are: How much should we consider the "costs" of increased flooding or severe storms that might happen in the future? What about climate disasters that happen elsewhere, but might ultimately impact America?

The Obama administration created a new, administration-wide measurement of that cost, forming a high-level, interagency working group to estimate the social cost of carbon. That committee met occasionally to review the latest academic literature and models and decide whether to update its estimate. The number underpinned the Obama administration's climate agenda, providing a scientific basis for regulations whose benefits are inherently very difficult to measure.

Trump's executive order eliminates the working group and effectively turns over the job of cost-estimation to individual agencies. The order also scraps all the technical underpinnings for the Obama group's work, and tells agencies to estimate carbon costs by following the guidance of a Bush-era regulatory document from 2003.

Both liberal and conservative experts agree the change could have far-reaching consequences. In effect, the order will make carbon pollution seem far less costly to society—reducing the benefits that can be ascribed to climate change regulations, and making it harder for such rules to pass a cost-benefit test. That would make it easier for the Department of Energy and Environmental Protection Agency to weaken Obama-era regulations on everything from the Clean Power Plan to mileage standards for cars and trucks to methane regulations. It could also ease approval for proposed infrastructure projects like the Keystone pipeline.

"It would have an enormous impact," said William Yeatman, an energy expert at the free-market Competitive Enterprise Institute, which supports the changes.

Experts don't believe the Trump administration will simply ignore the social cost of carbon in their regulatory analyses, because tossing it out of the decision-making entirely would make the rules unlikely to survive a court challenge. Instead, agencies will likely come up with their own figures, using the OMB document as a guide. That document will lead to two main changes to the social cost of carbon. First, agencies will likely reduce their estimates of how much the future effects of lowering carbon should count in current decision-making. (In economic terms, this is known as raising the "discount rate," or the rate at which future benefits are discounted to their value in present-day dollars.) And second, it will change whether agencies consider the global benefits of a rule, or just the domestic benefits.

Typically, agencies only look at the domestic effects of regulation. But environmentalists argue that climate change represents a special case because global warming has consequences that don't stop at national borders. U.S. climate policies affect other countries' policies; those countries' actions could also benefit the U.S. "We want other people taking us into consideration when they set their climate policies, so we should be doing the same," said Alison Cassady,

director of domestic energy policy at the Center for American Progress. It's an important question in policymaking because the social cost of carbon emissions becomes much more significant if you factor in global benefits. The Obama administration included global benefits in its calculation of the social cost of carbon—a practice that infuriated conservatives, who pointed out that the costs of carbon policies are almost entirely domestic, so agencies should only be narrowly looking at how regulations benefit the United States.

The 2003 OMB document specifically directs agencies to focus on the costs and benefits in the United States, not globally. If there are significant effects beyond the border of the United States, it says, those “should be reported separately.”

In the end, how will agencies look at the social cost of carbon under the Trump administration? Since the executive order eliminated the interagency working group, there won't be one consistent figure; each agency will now come up with its own estimates. But two Obama-era technical documents provide a clue about the social cost of carbon under Trump. One found that replacing Obama's preferred discount rate with a moderately higher one—a likely outcome under Trump—reduces the estimated social cost of carbon emissions by around 70 percent. Another now-rescinded document estimated that the global benefits of carbon reduction were anywhere from 4 to 14 times greater than the domestic benefits alone. If those two changes are taken together, the estimated social cost of carbon—which the Obama working group estimated at \$36 per ton of carbon emissions—could fall by over 80 percent to \$7.20 per ton. If agencies assume that the vast majority of the benefits from emissions reductions are outside of the U.S., it could possibly be as low as \$1.80 per ton. That would dramatically reduce the estimated benefits of any new carbon-reduction rule—thus making every climate-related emission restriction appear far more costly.

As an example of how it affects a real-world regulation, Cassady pointed to the 2016 methane rule, which limited methane emissions from oil and gas operations and now is going to be reviewed by the EPA and Interior Department. With a lower social cost of carbon, she said, “it'll be easier for [EPA Administrator] Scott Pruitt to justify doing nothing, because it will be harder to show that the benefits outweigh the costs. They will have changed the math to get the result they want.”

Of course, conservatives levied the exact same change against the Obama administration, and this arcane debate is all but certain to end up in the exact same place: the courthouse.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/state-bar-association-opens-investigation-into-pruitt-emails-085711>

State bar association opens investigation into Pruitt emails

By Alex Guillen 3/30/17, 1:53PM

1. The Oklahoma Bar Association has opened an investigation into EPA Administrator Scott Pruitt over his statement to Congress that he did not use his personal email address for work as the state's attorney general, an assertion his office later admitted was incorrect.

2.

However, it remains unclear whether Pruitt will face any serious consequences.

In a letter this week, the association said it has "opened this matter for investigation" and asked Pruitt to respond to the complaint. "We will then conduct whatever further investigation we feel is needed," the association wrote. Once any investigation is completed, it will go before the bar's Professional Responsibility Commission, which will decide whether to take action.

The investigation will remain "confidential," per state rules, and is "strictly limited to the ethical and professional conduct" of Pruitt, according to the bar association.

The Center for Biological Diversity and an Oklahoma law professor filed an ethical complaint with the bar association earlier this month.

Amy Atwood, a senior CBD attorney, said she is pleased with the investigation. "Lying to Congress is a serious ethical breach, and it doesn't help that Pruitt's use of private emails reflect potential collusion with the very oil and gas industry he's now supposed to be regulating," she said in a statement.

An EPA spokesman did not immediately respond to a request for comment.

InsideEPA

<https://insideepa.com/daily-news/legal-hurdles-await-trump-scraps-agency-tools-weigh-ghg-impacts>

Legal Hurdle Await As Trump Scraps Agency Tools To Weigh GHG Impacts

By Abby Smith 3/30/17

Climate policy supporters say the Trump administration and its backers face “substantial” legal hurdles as they work to scrap the Obama administration's social cost of carbon (SCC) metric and its guidance to account for climate impacts in environmental reviews, saying any retreat will bolster challenges to projects and regulations if they fail to adequately analyze such climate risks.

“Trump’s actions will sow grave uncertainty in how agencies plan for changing climate dynamics . . . whether we’re talking about energy production, watershed protection, or the construction of bridges, highways, power lines, dams, and other critical infrastructure,” Erik Schlenker-Goodrich, executive director of the Western Environmental Law Center, said in a statement.

He said the order's requirements “will also hide the true costs of fossil fuel projects to the public,” adding that environmentalists will sue if administration officials fail to ensure projects account for potential climate impacts.

“Rest assured: we will wield the full power of the law to combat the Trump order and continue our advocacy to transition away from fossil fuels and to build the resilience of our public lands, our rivers and forests, and our communities to withstand the impacts of climate change,” Schlenker-Goodrich added.

Such statements came in response to provisions in President Donald Trump's “[Energy Independence](#)” executive order, which calls for the administration to “rescind” Council on Environmental Quality's (CEQ) guidance for accounting for greenhouse gas and climate impacts

in National Environmental Policy Act (NEPA) reviews.

The guidance goes “way beyond what NEPA requires,” a senior White House official says.

In addition, the guidance eliminates the SCC and related metrics for measuring the benefits of reducing methane and nitrous oxide, default values that agencies have used to justify a host of energy and environmental rules, including measures from EPA and the departments of Energy, Interior, Transportation and others.

The order directs the interagency working group that established the metrics to be “disbanded.” And Trump orders the withdrawal of six technical support documents establishing and updating the SCC and related metrics, saying they are “no longer representative of governmental policy.”

Instead, the executive order directs agencies to adhere to the Office of Management & Budget's (OMB) Circular A-4, a Bush administration document that outlines general principles for conducting regulatory cost-benefit analysis.

Conservative critics of the SCC have argued the Obama administration's metric ignores those guidelines, particularly by using a smaller discount rate to calculate the current value of future benefits and including global benefits -- both of which they say results in an overestimation of the benefits of reducing GHGs.

'Overwhelming Record'

But supporters of those policies say the Trump administration is likely to come under heavy legal fire as it attempts to downplay climate impacts and relax consideration of GHG reductions in regulatory analysis. EPA and other agencies will face challenges to regulations and other actions that fail to include such considerations, and those will likely become a venue to oppose the administration's elimination of the Obama-era policies.

“I’m sure there will be twists and turns,” but ultimately the view of several Trump administration officials downplaying or denying human-caused global warming “is not an attainable position,” one environmental attorney tells *Inside EPA*. “These guys have an overwhelming record before them, lots of work having been done. Now they’re trying to turn back the clock, and it’s going to be very awkward for them legally, factually and ultimately politically.”

“I think the obstacles will be substantial. They can’t just pretend that these physical realities are not there,” the environmental attorney adds. “I think the view that some of the new agency heads have that climate change is not a thing is a tiny, minority view, even with industry. This is a real fringe position. A lot of industry is deeply uncomfortable with the idea they’re going to pretend climate change is not real.”

The source continues: “I don’t think courts are going to buy it either.”

A second environmental attorney says the administration may run into difficulties as it seeks to explain to a court why it has reverted to prior policy that in many ways has been “superseded by new scientific and economic knowledge.”

But the source adds that while it will be important for the administration to have explained its reasoning, “the judicial reaction to it will depend in no small part on who is the judge and how much deference they choose to afford to the new EPA.”

Nevertheless, prior legal precedents, particularly on the SCC, may make it difficult for the Trump administration to step away from the metric altogether.

For example, environmentalists cite language in [a 2007 appellate court ruling](#) that finds the cost of carbon reductions is “certainly not zero.”

In that case, *Center for Biological Diversity (CBD) v. National Highway Traffic Safety Administration (NHTSA)*, the U.S. Court of Appeals for the 9th Circuit remanded the Bush administration’s vehicle fuel economy standards to the agency in part because it failed to

monetize the benefits of GHG reductions in its cost-benefit calculations.

NHTSA had argued it did not monetize such benefits because the value of GHG reductions was too uncertain to determine, an approach the court ruled was “arbitrary and capricious.”

“NHTSA insisted at argument that it placed no value on carbon emissions reduction rather than zero value. We fail to see the difference. The value of carbon emissions reduction is nowhere accounted for in the agency's analysis, whether quantitatively or qualitatively,” the court wrote.

'Climate Change Denialism'

Observers say that ruling's precedent will likely make it difficult for the Trump administration to justify not using a metric of some kind. And while the executive order directs agencies, to the extent they must monetize GHG reductions, to use Circular A-4, that approach is likely to come under heavy scrutiny.

Even a decade ago when the scientific record was more limited and much less work had been done to determine an appropriate metric, “the courts were uncomfortable with the Bush administration's much more modulated position,” the first environmental attorney says.

And if the Trump administration were to offer a weaker SCC metric -- or account for GHG reductions in a more limited way -- it “will be hard for anyone to not see that through this lens that the administration has embraced climate change denialism,” the source adds.

The attorney says that perception impacted the court's decision in the *CBD* case to some extent, and that could be magnified in the Trump era. “There was a sense the [Bush] administration really didn't want to do anything about climate,” the source said, noting that likely “influenced the court's evaluation of” the Bush administration's explanations.

Observers also point to a 2016 ruling from the 7th Circuit, *Zero Zone, Inc., et al. v. Department of Energy (DOE), et al.*, where the court upheld the department's use of the SCC in cost-benefit analysis for an energy efficiency standard.

That ruling, which found DOE's use of the SCC reasonable and worthy of deference, will be especially significant if the Trump administration departs from the Obama administration's approach, says Denise Grab of the Institute for Policy Integrity.

In challenges to a Trump agency's analysis of GHG impacts, SCC supporters “could use the *Zero Zone* case as a contrast” to show how the Trump administration's approach “is not reasonable and rational” and “defers from the approach the court has already upheld,” she tells *Inside EPA*.

In addition, observers argue that even when the SCC is used, agencies still do their analysis subject to Circular A-4, and they say the Trump administration may find it hard to justify the document's requirement that analysis be “based on the best reasonably obtainable scientific, technical and economic information available.”

Discount Rate

Noah Kaufman of the World Resources Institute (WRI) says the Trump administration could face scrutiny as it attempts to shift some of the SCC's inputs -- such as the discount rate and the consideration of global impacts -- to relax the consideration of GHG reductions in policymaking.

“There's not one serious economist who works on climate change that thinks for intergenerational problems like climate change a 7 percent discount rate is at all appropriate,” Kaufman says. The Obama SCC metric uses discount rates ranging from 2 to 5 percent, but conservative critics have argued Circular A-4 requires the use of a 7 percent rate.

Kaufman says it could be hard for the Trump administration to justify a 7 percent discount rate. “Presumably they could point to Circular A-4, but if they're forced to go any steps further, it will fall apart.”

The issue of global versus domestic impacts is “a little trickier,” Kaufman says, though he says

many climate economists urge a global consideration because climate change is a global problem. "That's another situation where the statutory requirement could come up against what the best science and economics tells us to do."

Kaufman says that the Trump administration cannot do irreparable harm to the SCC, as a future administration could return to using the metric consistent with "the best available science and economics." But he notes Trump attacks on the metric will deal a blow to overall progress on climate research.

"The shame of it is" during the Obama administration "the U.S. government has been a really important and valuable tool in pushing forward our knowledge on climate science and climate economics," Kaufman says. "While a future administration could certainly get back on that pathway, it would be a shame if we lost the research and the skill that the folks in EPA and DOE and across the government have contributed to our knowledge."

Other observers are expressing similar concerns over the administration's decision to withdraw the NEPA guidance. "It's not enough that the president wants to bury his head in the sand when it comes to climate change; now he insists that the rest of the federal government do the same, making climate denial the official policy of the U.S. government," Robert Verchick of the Center for Progressive Reform.

He calls the directive to stop accounting for climate impacts in federal planning the "hidden landmine" in the order, adding it "will invite costly litigation, since some federal courts require" the consideration of climate impacts under NEPA.

Nonetheless, supporters argue Trump's rescission of the GHG guide does not preclude the consideration of such impacts, and they expect individual permits that exclude it to be challenged.

Trump's order "does not remove the general duty to consider climate change impacts on federal actions," but it "does take away modern, uniform and sophisticated tools to use in that evaluation," said Ann Weeks of the Clean Air Task Force during a March 29 press call. -- *Abby Smith* (asmith@iwpnews.com)

Washington Examiner

https://news.google.com/news/url?sr=1&sa=t&ct2=us%2F0_0_s_1_0_t&usg=AFQjCNGGsyFFy0_NRKYRFpD
[backfires-in-trying-to-praise-trumps-climate-order%2Farticle%2F2618900](#)

EPA backfires in trying to praise Trump's climate order

By John Sicilano 3/30/17, 1:58PM

The Environmental Protection Agency tried to show praise for President Trump's climate change executive order on Thursday but instead may have done the opposite.

In an email sent out Thursday morning, attempting to show what industry groups and lawmakers are saying about Trump's action, the EPA included the remarks of a leading critic of Trump's anti-climate change efforts, Democratic Sen. Tom Carper of Delaware, instead of the remarks of one of his champions, Sen. Shelley Moore Capito, R-W.Va., from coal country, but attributed the quote to Capito.

On top of that, it was the first item in a long list called "What they are saying about President Trump's executive order on energy independence."

This is what it said:

Senator Shelly Moore Capito (W.Va)

With this executive order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible – it's irrational. Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime. With the world watching, President Trump and Administrator [Scott] Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.

The EPA scrambled about an hour later to fix the problem, releasing the same praiseworthy email minus the Carper comments with CORRECTION in the subject line.

An EPA representative apologized for the flub, according to *Politico*. Trump had continually called out to Capito using her first name to thank her for her support at the signing ceremony on Tuesday.

The Trump order rolls back former President Barack Obama's climate change agenda, which the administration framed as a victory for the U.S. coal mining industry.

The Blaze

<http://www.theblaze.com/news/2017/03/29/house-passes-bill-stopping-epa-from-using-hidden->

[data-when-crafting-regulation/](#)

House passes bill stopping EPA from using hidden data when crafting regulation

By Brandon Morse 3/29/17, 7:52PM

On Wednesday, in a 228-194 vote, the Republican-controlled House passed a bill that would prohibit the Environmental Protection Agency from crafting regulation based off of scientific data that has not been seen by the public.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, will force the EPA to use data that is publicly available when crafting regulations, potentially leaving out medical findings that are kept hidden from the public to protect patient privacy. Provisions have been set aside within the bill to redact personal information, however.

“This legislation ensures that sound science is the basis for EPA decisions and regulatory actions,” said Rep. Lamar Smith (R-Texas), chairman of the Science Committee, and author of the bill.

“The days of ‘trust-me’ science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review,” he continued. “That’s called the scientific method.”

Smith discussed how during the previous administration, the EPA would craft and enforce regulation that would be based off of data that was hidden from the general public. The Texas congressman said that he also cares about the environment, but transparency is needed in order for the science being used to impose regulation to be legitimate.

“We all care about the environment,” he said. “But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain.”

Democrats, however, are claiming that Smith’s bill will essentially cripple the EPA, and endanger everyone. In a memo from the Democratic Staff of the Committee on Science, Space, and Technology, they argued that it “would prevent EPA from functioning effectively and using the most relevant scientific data,” and that end result would be that the “EPA’s work grinds to a halt and the health of Americans and the environment are put at risk.”

The EPA may be taking even more hits in the future, as President Donald Trump’s budget plan for 2018 has the government organization taking a 30 percent reduction in funding.

Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/epa-climate-release-tries-to-praise-trump-but-blasts-him-instead-085685>

EPA climate release tries to praise Trump but blasts him instead

By Alex Guillen 3/30/17, 11:51AM

An EPA effort to showcase praise for President Donald Trump's climate moves went awry today — and instead accused Trump of choosing “to recklessly bury his head in the sand.”

The criticism came in a quote from Democratic Sen. Tom Carper of Delaware, which EPA inaccurately attributed to Sen. Shelley Moore Capito (R-W.Va.), a strong supporter of the coal industry and Trump's order.

“President Trump has chosen to recklessly bury his head in the sand,” said the quote, which appeared at the top of the EPA press release's litany of reactions to Trump's climate order. The quote added that the order “calls into question America's credibility,” and said the president and Administrator Scott Pruitt “have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made.”

Carper is the top Democrat on the Environment and Public Works Committee. Capito's actual statement, of course, praised Trump and the executive order, which instructed the agency to roll back a series of former President Barack Obama's most important climate change initiatives.

An EPA spokesman said the mix-up was a mistake. “We apologize for the error and are making sure that our process is improved as we build our team,” he said. The agency swiftly issued a new version of the email, which also corrected the spelling of Capito's first name.

Trump specifically named Capito at the signing Tuesday at EPA headquarters in thanking various lawmakers, Cabinet members and industry leaders for their work.

“And Shelley, thank you very much also, I spotted you in the audience. Thank you,” Trump said.

EPA's list also included praise from Kentucky Gov. Matt Bevin and West Virginia Attorney General Patrick Morrisey, as well as various industry groups, including the American Coalition

for Clean Coal Electricity and the American Petroleum Institute.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/pruitt-pesticide-decision-shows-epas-new-direction-085686>

Pruitt: Pesticide decision shows EPA's new direction

By Jenny Hopkinson 3/30/17, 11:39AM

EPA Administrator Scott Pruitt is pointing to the denial of a petition from environmentalists that sought to ban the pesticide chlorpyrifos as an example of the new direction he has set for the agency.

In remarks this morning to the National Cattlemen's Beef Association's Legislative Conference in Washington, D.C., Pruitt said he plans to lead EPA by closely following the law, restoring the rulemaking process to what he sees as its rightful place and working in conjunction with the states.

Pruitt said he denied the longstanding request from Pesticide Action Network North America and the Natural Resources Defense Council — a request that was followed by the Obama administration's finding that the pesticide could pose health risks to children — because, in his view, the petition took regulation of the pesticide out of the process that Congress instructed EPA to follow. A federal court had given EPA until the end of the week to make a decision on the 2007 petition.

"Because that process was breached, we said no; we denied that petition," Pruitt said. "It's not going to be regulated. ... Process is going to be respected."

New York Magazine

<http://nymag.com/daily/intelligencer/2017/03/epa-chief-declines-to-ban-pesticide-linked-to-fetal-damage.html>

EPA Chief Overrules Own Scientists, Declines to Ban Pesticide Linked to Fetal Damage

By Eric Levitz 3/30/17, 10:05AM

In 2015, scientists at the Environmental Protection Agency advised the Obama administration to ban one of the nation's most popular pesticides, chlorpyrifos, after concluding that the chemical impaired fetal brain and nervous-system development. Specifically, the children of farm workers exposed to heavy doses of the product appeared to suffer aberrantly high rates of learning, memory, and behavioral problems. The chemical had already been banned for indoor use, in 2001, due to similar concerns.

But Dow Chemical, which makes chlorpyrifos, wasn't convinced. Nor were many farm groups that rely on the pesticide. And they began lobbying the Obama administration to reject the environmentalists' supposed alarmism.

Last July, an EPA scientific-review panel scrutinized the agency's research on chlorpyrifos, and identified some causes for skepticism about the conclusiveness of its findings. This led to revisions in the researchers' report. Still, as of late last year, EPA staff maintained that the chemical should be prohibited.

But the agency's new leader, Scott Pruitt, who built his national profile by suing the EPA on behalf of industrial interests, decided to err on the side of birth defects Wednesday night.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a written statement. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results."

In rejecting the ban, Pruitt took "final agency action" on the question of chlorpyrifos's safety, a move that suggests the EPA will not revisit the matter until 2022.

It's worth noting that the Obama administration seems to have dragged its feet on this ban, and

that there were some quibbles with the initial, underlying research within the EPA. But it is rather difficult to give Pruitt the benefit of the doubt, given the Trump administration's broader contempt for scientific inquiry.

The day before Pruitt's announcement, Trump issued a series of executive orders reversing Barack Obama's Clean Power Plan, and other climate-change policies. He did this without soliciting any advice or guidance from scientists and engineers inside the White House, according to the New York Times. That same day, according to *Politico*, staffers at the Department of Energy's climate office were told not to use the words "climate change" or "Paris Agreement" in any written memos — or else the DOE's new chief, Rick Perry, would have a "visceral reaction."

Meanwhile, Trump has failed to appoint anyone to the White House's top advisory positions on technology or science. The administration's Office of Science and Technology Policy is becoming a ghost town.

Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump's EPA Won't Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17, 8:33AM

President Donald Trump's Environmental Protection Agency (EPA) rejected environmentalists' demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA's own analysis found that "there do not appear to be risks from exposure to chlorpyrifos in food." The agency's own website says chlorpyrifos is safe for humans in "standard" amounts.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a press statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA's attempts to ban the pesticide.

"Dow AgroSciences supports U.S. Environmental Protection Agency's (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in a statement. "Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops."

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled "Protect Our Children's Brains."

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn't completed its assessment of the pesticide's effects on drinking water and that "certain science issues" regarding chlorpyrifos are "unresolved."

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, "the risks of pesticides in the diet are remote, long-term, and theoretical, and there is no cause for immediate concern by parents." Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was "not even accurate."

"This is a welcome decision grounded in evidence and science," Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. "It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States."

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

The Hill

<http://thehill.com/policy/energy-environment/326472-house-approves-epa-science-committee-overhaul>

House approves EPA science committee overhaul

By Devin Henry 3/30/17, 10:42PM

The House on Thursday approved a bill to overhaul the Environmental Protection Agency’s (EPA) scientific advisory committee.

The legislation from Rep. Frank Lucas (R-Okla.) would change membership requirements for the EPA’s Science Advisory Board to include more industry voices, expanding financial and conflict of interest disclosure requirements and giving the public the chance to more readily comment on the board’s actions.

The bill is similar to one that passed last Congress, and it comes one day after the House approved another bill aimed at the EPA’s use of science. Lucas’s bill passed on a 229-193 vote.

“This is a bill that is built on the policies we should uphold regardless of which side of the political aisle we are on, or who happens to be president,” Lucas said.

The bill “ensures the best experts are free to undertake a balanced and open review of regulatory science.”

The EPA’s Science Advisory Board reviews the scientific and technical research that goes into

the agency's rulemaking process, and it advises the agency on other scientific matters.

Democrats broadly opposed Lucas's bill, saying its requirements would undermine EPA's research by allowing more industry influence over the scientific process.

Rep. Eddie Bernice Johnson (D-Texas) said the bill would restrict the agency's rulemaking by giving too much influence to regulated industries.

She contended that if the bill had been law during fights over tobacco regulations in the 1990s, "Big Tobacco likely would have succeeded in cooping the Science Advisory Board."

The bill "is designed to harm the EPA's ability to use science to make informed decisions," she said. "This is not the best interest of the American public."

Thursday's vote comes after the House passed a bill to restrict the type of science and data the EPA uses to write new regulations.

The House voted 228-194 on Wednesday to prohibit the EPA from writing rules using science that is not publicly available. That legislation is similar to measures passed in previous Congresses.

CNN

<http://www.cnn.com/2017/03/29/opinions/trump-signs-earth-death-warrant-jones/index.html>

Van Jones: Trump may have signed Earth's death warrant

By Van Jones 3/30/17, 10:31AM

As usual, Donald Trump is completely upside down on the facts.

In 2015, President Barack Obama created the Clean Power Plan to slow climate disruption. It was the first action ever taken by the US government to cut carbon pollution from existing power plants.

And this week, with the stroke of a pen, President Trump directed the Environmental Protection Agency (EPA) to take steps to end it.

Trump may have just signed a death warrant for our planet (at least, for a planet that is liveable for humans). And the lies he told to justify it have real consequences for real Americans, here

and now.

First, Trump says he wants to dismantle the Clean Power Plan because it represents what he calls "job-killing regulation." False -- limited losses in some sectors are dwarfed by gains in others.

The potential for job growth in the clean energy sector dwarfs any potential job growth in the fossil fuel economy. For example, Trump promised the Keystone XL pipeline would create 28,000 jobs when he approved the project. But he had to use a huge multiplier to get to even that low number. In fact, it would create about 3,000 temporary construction jobs and only 35 permanent jobs. That's right: 35 permanent jobs.

By comparison, in 2016 the number of jobs in solar grew 25% from the year prior, according to figures from the nonprofit Solar Foundation, while jobs in the rest of the economy had less than 2% growth. Renewable energy jobs now create jobs 12 times faster than the rest of the economy.

For Trump to ignore this fact is inexcusable and irresponsible. He's actually hurting the people he claims to help by refusing to invest in opportunities for more jobs in the booming clean energy sector.

By the way, if Trump really cares about those coal miners he invited to the signing ceremony, he should be doing something about the 20,000 who are sick, retired, and within weeks of losing their health benefits if Congress doesn't act. When will Trump call a press conference about them?

Second, Trump claims that the Clean Power Plan was an EPA overreach -- an abuse of its authority. Again, false. The plan is based on Republican President Richard Nixon's Clean Air Act. And the EPA's authority to fight climate disruption was established by a ruling of conservative Chief Justice John Roberts' Supreme Court, under President George W. Bush. In Massachusetts v. EPA (2007), five justices determined that EPA not only has the authority but also the responsibility to cut pollution if it endangers public health -- which it does.

Curbing carbon pollution -- and defending America's land, water and people from other

potentially lethal threats -- is neither a liberal value nor a conservative value. Protecting Americans from climate chaos is in everyone's interest.

Third, Trump says eliminating environmental regulations will make America great again. Remember when we had burning rivers? That wasn't so great.

If we follow the Trump trajectory, we're going to be bringing smog back to American cities, accelerating asthma rates in children, putting more poison in the groundwater and costing a lot of Americans their lives.

Trump wants to focus on "job-killing regulations." We should be equally concerned about potentially child-killing de-regulation.

Government must balance the interests of people's ability to earn a living ... against their ability to actually live. Trump seems to have completely forgotten this.

For example, Kamita Gray in Brandywine, Maryland is living on the frontlines of some of the worst pollution in America. Brandywine is in Prince George's county, which has a population that is 65% African American. This community has three power plants in its backyard already. Two more are being developed. The air quality is so bad there that when the wind blows, people do not leave their homes.

It will be communities like Brandywine that are left to deal with the brunt of fossil fuel pollution from power plants in their neighborhoods. If Trump wants to make America great again, he needs to remember that Brandywine is a part of America, too.

Mother Jones

<http://www.motherjones.com/environment/2017/03/pruitts-epa-capito-carper-lol>

“Irrational,’ ‘Reckless,’ Irresponsible’: The EPA Just Accidentally Told the Truth About Trump’s Climate Plan

By Rebecca Leber 3/3/0/17, 11:06AM

On Tuesday, President Donald Trump visited the Environmental Protection Agency, where he signed an executive order dismantling key Obama-era policies aimed at fight climate change. On Thursday morning, the EPA sent out a press release highlighting some wonderful praise that Trump's order has received from groups such as the Chamber of Commerce, the American Petroleum Institute, the American Coalition for Clean Coal Electricity, and—of course—Republican politicians. But the top quote in the EPA's email, attributed to Sen. Shelley Moore Capito (R-W.Va.), had an unexpected message:

With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible— it's irrational. Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime. With the world watching, President Trump and Administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.

(Hat tip to Pat Ambrosio).

This is obviously not the glowing review Trump was hoping to get from a coal-state Republican senator. Alas, it appears that someone at the EPA screwed up. That statement actually comes from a Democrat, Sen. Tom Carper (Del.)—not from Capito. If the EPA press release continued to quote from Carper, this would have been the next line:

This order clearly proves that this administration is not serious about protecting jobs and our environment. As a West Virginia native, I understand the plight of coal miners in today's day and age. But the Clean Power Plan isn't the coal industry's problem—market forces are. Let's be perfectly clear: this executive order will not bring back the coal industry. It is an insult to the men and women who voted for him for Donald Trump to say otherwise.

Trump recognized Capito, the West Virginia senator, multiple times in his speech at the EPA Tuesday. He also declared that coal is clean. At the same event, Interior Secretary Ryan Zinke declared the so-called "war on coal" to be over.

The EPA has now sent out a revised version of the press release, correctly quoting Capito's praise of Trump's order. And this time, the agency even spelled her name correctly.

Update: I reached out to some environmental groups and Carper's office over email for comment.

"Senator Carper is happy to lend his words to a good cause," the senator's spokesman said.

Sierra Club Executive Director Michael Brune said, "That quote is the first true thing Scott Pruitt's office has put out yet."

"MWAHAHAH," 350.org's communications director Jamie Henn began. "The Trump Administration's actions are so outrageous and counter-intuitive that even they can't keep up with the lies that they're spinning out to the public. For once, Capito sounds like she's right on: these executive orders are reckless, irrational, and wildly damaging."

Mother Jones

<http://www.motherjones.com/environment/2017/03/trump-epa-brain-damaging-pesticide>

UPDATED: Trump's EPA Just Greenlighted a Pesticide Known to Damage Kids' Brains

By Tom Philpott 3/29/17

UPDATE (3-29-2017): EPA director Scott Pruitt signed an order denying the agency's own proposal to ban chlorpyrifos, according to a Wednesday afternoon press release. "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a written statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

By Friday, President Donald Trump's Environmental Protection Agency will have to make a momentous decision: whether to protect kids from a widely used pesticide that's known to harm their brains—or protect the interests of the chemical's maker, Dow AgroSciences.

The pesticide in question, chlorpyrifos, is a nasty piece of work. It's an organophosphate, a class of bug killers that work by "interrupting the electrochemical processes that nerves use to communicate with muscles and other nerves," as the *Pesticide Encyclopedia* puts it. Chlorpyrifos is also an endocrine disrupter, meaning it can cause "adverse developmental, reproductive, neurological, and immune effects," according to the National Institutes of Health.

Major studies from the Mount Sinai School of Medicine, the University of California-Davis, and Columbia University have found strong evidence that low doses of chlorpyrifos inhibits kids' brain development, including when exposure occurs in the womb, with effects ranging from lower IQ to higher rates of autism. Several studies—examples here, here, and here—have found it in the urine of kids who live near treated fields. In 2000, the EPA banned most home uses of the chemical, citing risks to children.

Stephanie Engel, an epidemiologist at the University of North Carolina and a co-author of the Mount Sinai paper, says the evidence that chlorpyrifos exposure causes harm is "compelling"—and is "much stronger" even than the case against BPA (bisphenol A), the controversial plastic additive. She says babies and fetuses are particularly susceptible to damage from chlorpyrifos because they metabolize toxic chemicals more slowly than adults do. And "many adults" are susceptible, too, because they lack a gene that allows for metabolizing the chemical efficiently, Engel adds.

But even after banning chlorpyrifos from the home, the EPA allowed farms to continue spraying it. While US farmers eased up on it in recent years, they're still using quite a bit, mainly on corn and soybeans in the Midwest and on fruit, vegetable, and orchard crops in Washington, California, and the Southeast. About a fifth of all the chlorpyrifos applied on US farms happens in California. There, the main target crops are alfalfa, almonds, pistachios, walnuts, tomatoes, and strawberries.

In October 2015, after a review spanning more than a decade, the EPA concluded that exposure to chlorpyrifos posed an unacceptable risk to human health, both from residues on food and in drinking water, and proposed a new rule that would effectively ban farm use of it. The agency also expressed concern about "workers who mix, load and apply chlorpyrifos to agricultural and other non-residential sites and workers re-entering treated areas after application."

The EPA then dragged its feet on finalizing the rule; but in August 2016, a US Federal Appeals court demanded that a decision be made by March 31, 2017, chastising the agency for its "continued failure to respond to the pressing health concerns presented by chlorpyrifos."

A few months after that order, of course, Trump won the presidency, and so his EPA team will make the final decision on chlorpyrifos. Uh-oh. Trump often trumpets his own hostility to regulation and has backed it up by proposing a 31 percent cut in the EPA's budget. Before taking office, Trump looked to Myron Ebell of the hyper-libertarian Competitive Enterprise Institute to lead the EPA's transition. Ebell focuses mainly on denying climate change and promoting fossil fuels, but as I noted in November, CEI runs a website, SafeChemicalPolicy.org, that exists to downplay the health and ecological impacts of pesticides.

Trump's pick to lead the EPA, former Oklahoma Attorney General Scott Pruitt, is a non-scientist with little track record in assessing the health risks posed by chemicals. But he does hew to Trump's general hostility to regulation. At his confirmation hearings, Pruitt couldn't name a single EPA regulation he supports, and he even declined to say whether he'd finalize the EPA's proposed ban on asbestos.

Meanwhile, Dow and the pesticide industry trade group CropLife America are pushing the EPA to backtrack on the chlorpyrifos ban. "The court ordered EPA to make a final decision on the petition by March 31, 2017, but did not specify what that decision should be," Dow noted in a November 10 press release urging the agency to maintain the status quo.

Dow AgroSciences' parent company, Dow Chemical, has also been buttering up Trump. The company contributed \$1 million to the president's inaugural committee, the Center for Public Integrity notes. In December, Dow Chemical Chairman and CEO Andrew Liveris attended a post-election Trump rally in the company's home state of Michigan, and used the occasion to announce plans to create 100 new jobs and bring back another 100 more from foreign subsidiaries. Around the same time, Trump named Liveris chair of the American Manufacturing Council, declaring the chemical exec would "find ways to bring industry back to America." (Dow has another reason beside chlorpyrifos' fate to get chummy with Trump: its pending mega-merger with erstwhile rival DuPont, which still has to clear Trump's Department of Justice.)

Kristin Schafer, policy director for the Pesticide Action Network, says it would be highly unusual for the EPA to backtrack on a decision to ban a chemical after so strongly signaling that it would. (PAN is one of the advocacy groups that sued the EPA way back in 2007 over its previous lack of action on chlorpyrifos.) But she added that "all bets are off with this administration."

She pointed out that the EPA and Dow have been battling over the chemical since the Clinton administration. Back in 1995, the agency fined the company \$732,000 for failing to disclose more than 100 reports of chlorpyrifos poisoning. "These reports are particularly important," the agency complained, because chemicals enter the marketplace without any human testing, and poisoning notices "may document effects not seen in animal studies, or indicate areas which warrant further research." Most of those alleged poisoning incidences involved exposure in the home—chlorpyrifos was then the most-used household and yard insect-killer. By 2000, as noted above, the EPA had seen fit to ban most home uses of the insect killer.

In an analysis of the risks posed by chlorpyrifos released in November 2016, the EPA crunched data on residues found in food and compared them to the levels at which the chemical can harm the most vulnerable populations: kids and women of child-bearing age. The results (found on page 23 of the EPA doc) are startling. Natural Resources Defense Council researchers turned them into this handy graphic:

It would be quite something for the Trump administration to dismiss such overwhelming evidence from EPA scientists and continue allowing chlorpyrifos to be sprayed on crops with few restrictions. But he has already displayed a willingness to trash the agency's rule-making process to placate his Big Ag supporters.

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NPR

<http://www.npr.org/sections/thesalt/2017/03/29/521898976/will-the-epa-reject-a-pesticide-or-its-own-scientific-evidence>

EPA Decides Not To Ban A Pesticide, Despite Its Own Evidence Of Risk

By Dan Charles 3/29/17, 7:06PM

Update 7:06 P.M. Eastern: The EPA says it's reversing course and keeping chlorpyrifos on the market.

That's despite the agency's earlier conclusion, reached during the Obama administration, that this pesticide could pose risks to consumers. It's a signal that toxic chemicals will face less restrictive regulation by the Trump administration.

In its decision, the EPA didn't exactly repudiate its earlier scientific findings. But the agency did say that there's still a lot of scientific uncertainty about the risks of chlorpyrifos, and it said that because of that uncertainty, the court had no right to set a firm deadline for a decision. A federal

court had ordered the EPA to decide by midnight on Friday whether to ban chlorpyrifos. The Obama administration proposed this ban back in 2015.

The EPA says it will keep studying the chemical.

Patti Goldman, from the environmental group Earth Justice, calls the decision "unconscionable," and says that her group will fight it in court.

New EPA Administrator Scott Pruitt made his reputation opposing the agency's regulations, and many farm organizations expected him to renounce the proposed ban. But doing so would mean disregarding a substantial pile of scientific evidence that his agency has assembled on the risks of this chemical.

Our original story continues.

Farmers have been using chlorpyrifos since 1965. Most of them know it by its trade name, Lorsban. When Wesley Spurlock, a farmer in the panhandle of Texas, sees worms on his corn or aphids on his wheat, this is the chemical that he typically loads into his sprayer.

"This chemical doesn't scare us at all," he says.

He does wear special clothing to protect himself, though. Because this chemical attacks the nervous systems of insects and people. It can cause dizziness, vomiting and diarrhea. So he's careful when handling it. "You don't spill any of it. It goes into the sprayer, we don't splash it around and make a mess," he says.

If he's spraying near the house, he might tell the kids to stay inside until the job is done. "By doing all this, it's a safe product," he says. "It's doing its job and it's doing it well."

Fruit and vegetable farmers use this chemical on citrus trees, strawberries, broccoli and cauliflower. This can leave residues on those foods in the supermarket. Several environmental advocacy groups have gone to court to force the EPA to ban the use of chlorpyrifos by farmers because of the risks that the chemical poses to consumers and to people who live near fields where it's used.

"Based on the harm that this pesticide causes, the EPA cannot, consistent with the law, allow it in our food," says Patti Goldman, an attorney with the environmental advocacy group Earthjustice.

More than a decade ago, the EPA banned the spraying of chlorpyrifos indoors to get rid of household bugs.

At that time, though, the EPA thought that use on the farm posed little risk. The agency was relying on scientific studies that directly measured the immediate effect of chlorpyrifos on the nervous system. Residues on food weren't nearly enough to keep nerves from working normally.

But then new evidence surfaced. Jim Jones, who was assistant administrator of the EPA and responsible for pesticide regulation before he left the agency in January, says the new evidence came from studies in which scientists followed hundreds of mothers and their newborn children, monitoring their exposure to lots of chemicals. One of these studies, by researchers at Columbia

University, measured the levels of chlorpyrifos in blood taken from umbilical cords when babies were born.

While the study was going on, the ban on indoor uses of chlorpyrifos came into effect. So over the course of those years, scientists were able to gather data on children who had been exposed to very different levels of the pesticide.

They found that exposure to chlorpyrifos caused small but measurable differences in brain function. At age 7, the average IQ of children who had been exposed to high levels of chlorpyrifos was a few percentage points lower than children who hadn't been exposed to much of the chemical at all. Other studies showed that some people are much more vulnerable to chlorpyrifos because of their genetic makeup.

The studies suggested that this chemical was more dangerous than people had previously realized.

Jones says the EPA struggled to translate the findings of these studies into a prediction of risk from chlorpyrifos residues on food. For one thing, the agency had to come up with an estimate of how much chlorpyrifos the women had been exposed to, based on levels of chlorpyrifos in their blood.

"But once we cracked that nut, and you had the risk evaluated and in front of you, it became, in my view, a very straightforward decision, with not a lot of ambiguity in terms of what you would do," he says.

The law on pesticides is very strict: It requires "a reasonable certainty that no harm will result" to consumers or people living in the areas where pesticides are applied.

In 2015, the EPA proposed a ban on chlorpyrifos.

Dow Agrosciences, the company that sells chlorpyrifos, insists that a ban is unjustified.

Jim Aidala, a former pesticide regulator at the EPA who now works as a consultant to Dow, says that many scientists — including those on a committee that the EPA asked to look at this question — aren't convinced by the scientific methods the EPA used. "There's a lot of controversy about this," he says.

But the EPA is facing a deadline, because of legal challenges from environmental groups, including Earthjustice, which have submitted a petition that the EPA ban chlorpyrifos. A federal judge ordered the agency to make a final decision on this petition by March 31.

"I'm waiting with bated breath for Friday, to see what they're going to go," Jones says. "I just don't know what basis they would have to deny the petition [to ban the chemical], given the vast scientific record that the EPA's got right now."

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215045&vname=dennotallissues&wsn=49950550

EPA Won't Ban Controversial Dow Pesticide

By Tiffany Stecker 3/23/17

The EPA has reversed course in its effort to restrict a widely used, insect-controlling pesticide, backpedaling on one of the Obama administration's key initiatives to lower pesticide exposure.

The Environmental Protection Agency will deny a decade-old petition from environmental groups to revoke all uses, called “tolerances,” of chlorpyrifos on food, EPA Administrator Scott Pruitt announced March 29. The insecticide is an important crop protection tool for fruit, vegetable and row crop growers.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making—rather than predetermined results.”

The agency released its decision two days before a court-ordered deadline to act on the 2007 petition from the Pesticide Action Network and the Natural Resources Defense Council. The Department of Justice is expected to file its response to the U.S. Court of Appeals for the Ninth Circuit by the end of the week.

Another Blow to Obama's Green Legacy

The farm and landscaping insecticide was developed by Dow AgroSciences and first registered by the EPA in 1965. Environmentalists have sought to end use of the chemical, which they say has been linked to neurodevelopmental delays in children, for decades.

In denying the petition, the EPA said it disagreed with the methodology used by the previous administration to justify what amounts to a near-ban of the chemical.

The agency issued a proposed rule to revoke the tolerances in 2015, using its authority in the 1996 Food Quality Protection Act. The agency based part of its scientific justification for doing so on epidemiological studies that measured levels of the chemical in exposed women and children.

Under former Administrator Gina McCarthy—President Obama's second nominee to run the agency—the EPA worked to solidify the scientific justification for revoking the tolerances, including a human health risk assessment that relied in part on a controversial epidemiological study from Columbia University on children's health effects.

Epidemiologists say these population studies record changes in learning and behavior that can't be traced in the rodent experiments that historically serve as the basis for the EPA's pesticide regulations. But the chemical industry argues that epidemiological studies are difficult to control,

and adverse outcomes can be attributed to a range of diet, lifestyle and other environmental factors.

Dow criticized the EPA for relying specifically on an epidemiological study from Columbia University that found that chlorpyrifos affected brain development in New York City children exposed in utero. The study's data was kept confidential by the university, prompting Dow and other industry groups to ask the EPA not to rely on the observations.

The company swiftly applauded the EPA decision.

“Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety,” spokesman David Sousa said in a statement.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/epa-pursuing-mindboggling-timeline-in-wotus-rewrite-154724>

Sources: trump admin aiming for new WOTUS rule by year's end

By Annie Snider 3/30/17, 5:01AM

The Trump administration is pressing EPA to replace the Obama administration's Waters of the U.S. rule by the end of this year, according to multiple sources with knowledge of the plan — a lightning-speed timeline that legal experts say could shortcut key steps and make the effort vulnerable in court.

EPA Administrator Scott Pruitt recently convened a meeting on the future of the WOTUS rule, where he told agency water staffers to have an initial rewrite ready by this summer, according to one source with knowledge of his instructions. Agency employees have been telling states, environmentalists and industry groups to expect things to move “on a very fast pace.” The source called the expectation to issue a proposed rule within a few months “mind-boggling.”

Pruitt's predecessors took a much more deliberate approach, knowing that any rule attempting to clarify the legal morass of Clean Water Act jurisdiction would almost certainly end up at Supreme Court.

The Obama administration spent years grappling with where to draw the lines, crafting a legal

rationale, and building a mass of scientific and technical reports to back up their approach before ultimately proposing its rule in April 2014. EPA then took 14 months to collect and respond to more than one million public comments, meet with more than 400 outside groups, draft changes to the rule and shepherd it all through the interagency review process.

The timeline being mulled by the Trump administration would give agency staff just a few months to put the foundation of the rule in place. An EPA spokeswoman said only that "discussions are ongoing."

Part of the reason the Obama administration took so long is because it produced lengthy supporting documents, even though most were not mandated by law. Those included a 90-page regulatory impact analysis and an exhaustive scientific report and technical support document, both of which clocked in around 400 pages each.

Trying to finish a new rule this year means the Trump administration would have to skip most of those steps, potentially making its rule more vulnerable to being overturned in court, said Patrick Parenteau, a Vermont Law School professor.

"The more they start cutting corners and not going back through the same process they did to do the [Obama administration] rule, the greater risk they're going to be overturned," he said.

Making EPA's job even more difficult is the fact that the agency is being asked to base its new rule on a potentially shaky legal interpretation.

The last time the Supreme Court weighed the limits of the Clean Water Act's jurisdiction was in the 2006 case *Rapanos v. United States*, where justices failed to reach a majority decision. The late Antonin Scalia led the court's four conservative justices in a plurality opinion setting a restrictive test for waterways to fall under federal protection, while the court's four liberal justices voted for broad federal jurisdiction. Justice Anthony Kennedy, the court's traditional swing vote, joined the conservative justices in their ruling, but he wrote his own, stand-alone opinion setting a broader test that would make streams and wetlands jurisdictional if they have a "significant nexus" to larger downstream waters.

None of the nine federal appeals courts that have weighed the issue have decided that Scalia's line of reasoning would stand on its own. But President Donald Trump directed EPA to look to Scalia's opinion in his executive order requesting a WOTUS rewrite, and sources familiar with instructions to agency staffers say they've been told to rely solely on Scalia's test.

Courts have generally ruled that Kennedy's test is the one that must be followed, although a handful have concluded that if a waterway meets either the Kennedy or the Scalia test, it falls under federal power. The Obama administration wrote its rule to meet Kennedy's test, and the George W. Bush administration had also focused on Kennedy in its 2008 guidance on the topic.

Legal experts generally argue that it will take some fancy footwork for the Trump administration to argue that Scalia's test should take precedence.

But Reed Hopper, an attorney for the Pacific Legal Foundation who has successfully argued the *Rapanos* case before the Supreme Court, said that rewriting the rule doesn't have to be that complicated.

"I think there isn't going to be much of a problem: Look at the act, see what it says, recognize that there are constitutional constraints," he said. He also pointed out that the Supreme Court has overturned lower courts on several recent wetlands cases, including one he argued last year in which the justices ruled that courts can review the federal government's jurisdictional determinations.

Reed argued that EPA could quickly rewrite WOTUS if it throws enough manpower into the effort.

But that could pose a challenge, since the Trump administration has been slow to staff up. Pruitt has only a small cadre of political allies at the agency so far, and key slots in the Office of Water and General Counsel's office are sitting empty. The Army Corps of Engineers, which will need to at least supply data for the rewrite effort, is likewise without a political leader.

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The Hill

<http://thehill.com/policy/energy-environment/326465-epa-head-wont-ban-controversial-pesticide>

EPA head won't ban controversial pesticide

By Timothy Cama 3/30/17 9:31 AM

The head of the Environmental Protection Agency (EPA) on Wednesday decided against banning the use of the pesticide chlorpyrifos on fruits and vegetables.

EPA Administrator Scott Pruitt's decision represents a course reversal from the Obama administration, which proposed the ban in 2015, based on its scientific findings of neurological harm from exposure to it.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a late Wednesday statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," he said.

Pruitt's decision matches what Dow Chemical Co., which sells the pesticide under the brand name Lorsban, sought in a January letter to the agency. Dow accused the Obama EPA of short-circuiting its scientific review process for pesticides, including in areas like transparency and peer review.

Farmers use chlorpyrifos to kill insects and some plant pests on numerous crops, including some meant for human consumption. It has been in use since 1965, but most household uses were phased out in 2001.

Research in recent years has linked the pesticide to nervous system and brain problems, including lowered brain function in some children exposed to it before birth.

The EPA under Obama proposed in 2015 to ban chlorpyrifos's use on food crops, responding to a petition and lawsuit from the Natural Resources Defense Council (NRDC) and other groups.

"With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains," a coalition wrote to the agency this year.

But Dow objected, as did agricultural interests.

“EPA’s proposal appears to be a retreat from its statutory obligation that, when evaluating pesticides for registration, it balances the risk of those active ingredients against their benefits to farmers specifically, and to the public generally, when they do not pose an unreasonable risk to health or the environment,” the American Farm Bureau Federation told the agency.

Groups that pushed for the ban slammed Pruitt’s decision

“The Trump administration is putting the needs of chemical corporations before children’s health,” NRDC senior scientist Miriam Rotkin-Ellman said in a statement.

“Parents shouldn’t have to worry that a dangerous chemical might be lurking in the fruits and veggies they feed their kids,” she said. “We will hold EPA accountable to protecting the American people from industries that can do us grave harm. The health of our children depends on it.”

NRDC and its could ask the Court of Appeals for the Ninth Circuit, the court where it previously sued the EPA to force a decision, to review Pruitt’s final determination.

LA Times

<http://www.latimes.com/business/la-fi-pesticide-epa-201703230-story.html>

Trump administration reverses course on nerve-agent pesticide

By Geoffrey Mohan 3/30/17, 4:00AM

The U.S. Environmental Protection Agency on Wednesday reversed an Obama administration recommendation to ban a pesticide linked to nervous system damage in children.

Newly installed EPA administrator Scott Pruitt signed an order that would allow farmers to continue using chlorpyrifos, which is sprayed on more than a dozen crops, including tree nuts, soybeans, corn, wheat, apples and citrus.

The Obama administration had announced in 2015 that the agency would adopt a “zero tolerance” policy for residue of the chemical on food, a move that effectively would have ended its use.

“By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results,” Pruitt said of the decision.

Pruitt’s action came in response to complaints by the agricultural and chemical industries that the Obama administration had cut short a review of the scientific evidence about the chemical’s effects on humans. The administration was under pressure from an order by the U.S. 9th Circuit Court of Appeals to speed up its ruling on the safety of the chemical.

The court order sprang from lawsuits by the Pesticide Action Network and Natural Resources

Defense Council, which had petitioned the EPA in 2007 to ban the chemical. Pruitt denied that petition Wednesday.

Kristin Schafer, policy director at Pesticide Action Network, accused EPA of caving to corporate pressure.

“The new administration’s agency ignored their own findings that all exposures to chlorpyrifos on foods, in drinking water, and from pesticide drift into schools, homes and playgrounds are unsafe,” Schafer said.

The U.S. Department of Agriculture praised Pruitt’s action.

“This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States,” said Sheryl Kunickis, director of the USDA’s Office of Pest Management Policy. “It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables.”

About 5 million to 10 million pounds of chlorpyrifos, manufactured by DowAgroSciences, are used annually on crops nationwide. The chemical is an organophosphate, a class of chemicals originally designed as a nerve agent weapon.

Chlorpyrifos has been banned from consumer products and residential use nationwide for more than 15 years. Several studies have suggested it can impair cognitive development in children. A UC Berkeley study found that 7-year-old children in the Salinas Valley who were exposed to high levels during pregnancy had slightly lower IQ scores than their peers. A Columbia University study showed similar effects at lower exposure.

In 2006, the EPA revised its tolerance levels for the chemical and limited the crops on which it can be applied.

In California, the Department of Pesticide Regulation restricted use of chlorpyrifos in 2015, requiring licensing, training and oversight by county agriculture commissions. It also tightened buffer zone requirements around fields where the chemical was applied, and banned its use near schools and other facilities when winds exceed 10 miles per hour.

Use of the chemical in California declined from a peak of more than 2 million pounds in 2005 to about 1.1 million in 2012, but rose to nearly 1.5 million pounds in 2013, the last year for which complete data were available, according to the state Department of Pesticide Regulation.

Environmental activists attribute the increase to the rise in almond production, which has been increasing rapidly in counties where the chemical is most heavily applied, according to the National Agricultural Statistics Service.

More than 500,000 pounds of the chemical were applied to crops in Kern and Fresno counties in 2013, by far the biggest users of the pesticide, according to the state Department of Pesticide Regulation.

Bloomberg BNA

Trump's Climate Order Didn't Touch Several Obama-Era Programs

By David Schultz 3/30/17

The Trump administration rolled back many of its predecessor's signature climate change measures with an energy-focused executive order, but the order was notably silent on several Obama-era climate programs that don't affect the energy industry.

Trump's March 28 order either rescinded or began the process of rescinding numerous regulations on power plants, oil and gas drillers, coal miners and others in the energy sector.

But his executive order left untouched several other Obama-launched initiatives meant to combat climate change. These include measures that affect the chemicals, waste management, agriculture and aviation industries, and some of these measures impose significant costs on those industries.

The fact that Trump is willing to let these Obama-era measures stand—at least for now—indicates his White House may be taking a less dogmatic stance toward climate change than one would expect, given the many statements of climate skepticism that have come from administration officials and from the president himself.

The Trump administration did not respond on the record to a request for comment for this story.

Chemicals

The executive order leaves intact the Obama administration's ban on a type of refrigerant chemical called hydrofluorocarbons, or HFCs. These chemicals were targeted in Obama's 2013 Climate Action Plan because, while they are a small contributor to climate change, they are also highly potent greenhouse gases that trap 1,000 times more heat in the atmosphere than the same amount of carbon dioxide.

The ban's exclusion from the executive order comes as little surprise, since just weeks earlier Trump administration attorneys went to court to defend it against a legal challenge from HFC manufacturers (*Mexichem Fluor Inc. v. EPA*, No. 15-01328 (D.C. Cir. 2/17/17)).

David Doniger, an attorney with the Natural Resources Defense Council, said Trump's defense of his predecessor's HFC ban betrays the White House's contradictory stance toward the issue of a warming planet.

“They seemed to draw a distinction: ‘Climate change is a hoax when it involves the energy industry, but not a hoax when it involves the chemicals industry,’” Doniger said at a March 22 D.C. Bar panel discussion.

Landfills

Though Trump's executive order took aim at a number of regulations on methane emissions, it didn't address a particular regulation on methane emissions from landfills that the Environmental Protection Agency finalized last year. The waste management industry is challenging this regulation in federal court, arguing that its emissions thresholds are too difficult to meet (Nat'l Waste and Recycling Ass'n v. EPA, No. 16-01371 (D.C. Cir. 10/27/16)).

The lead plaintiffs in this case said they didn't anticipate the Trump administration to pull back this EPA landfill rule in his executive order.

“There wasn't a big expectation on our part,” Anne Germain, a director with the National Waste and Recycling Association, told Bloomberg BNA. “The president is really trying to focus [deregulation efforts] on energy production and isn't targeting methane holistically.”

Aviation

Significantly, Trump's executive order did not instruct the EPA to rescind its 2009 finding that carbon dioxide is a pollutant, a landmark document that laid the basis for nearly all of the agency's climate regulations during the Obama era.

The order also did not nullify a much narrower EPA finding from last year on the pollution effects of greenhouse gas emissions from airplanes. This finding triggers a legal requirement that the EPA establish limits on airplane emissions.

The aviation industry has come out in favor of imposing these regulations on its own planes. It wants U.S. rules on greenhouse gases to be harmonized with soon-to-be-established international standards, which the industry will have to comply with regardless of what Trump's EPA does.

Agriculture

The executive order also gave no indication that Trump will put a halt to the work federal agencies have been doing on promoting biogas generation, another of the priorities listed in Obama's Climate Action Plan.

Since 2014, the EPA has been working with the Departments of Agriculture and Energy to help livestock farmers turn the waste from their animals into biogas fuel, rather than allowing it to decompose into climate-harming methane. A joint 2014 report from the agencies laid out a plan to promote this practice by allocating loans to farmers and grants to biogas researchers, among other measures.

Patrick Serfass, head of the trade group American Biogas Council, said his emerging industry was likely excluded from the executive order because of many other economic benefits to biogas generation, aside from reducing methane emissions.

“We don't have to talk about the climate benefits to make a really compelling point as to why it's important,” he told Bloomberg BNA. “We've stopped using our climate-related messages because the other ones are resonating more.”

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215035&vname=dennotallissues&wsn=49949500

Trump Administration Asks Court to Halt Clean Power Plan Review

By Andrew Harris and Jennifer A Dlouhy 3/30/17

President Donald Trump took yet another step toward dismantling his predecessor's climate change legacy, asking a federal appeals court halt its review of carbon-emission rules for power plants (West Virginia v. EPA, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Trump, who famously called climate change a hoax in a 2012 tweet, signed an executive order March 28 that starts unraveling a raft of rules and directives to combat climate change. That's now been followed by a bid to temporarily place on hold a 26-state suit challenging the centerpiece of President Barack Obama's environmental agenda—the Clean Power Plan—so the new administration can dismantle it ahead of a ruling on its legality.

The request is the strongest sign yet that the U.S. may back away from Obama's commitment to a 197-nation climate change accord, though the White House hasn't taken that step.

Asking the court to halt its review is the easy part. The next steps could be more difficult. Since the rule was finalized, the new administration can't kill it out right and instead must go through the rule-making process again to undo it, said Villanova University law professor Todd Aagaard. The Trump administration is arguing that the court shouldn't waste resources deciding the case, when the EPA plans to revise or undo the rule anyway.

“The case is not moot simply because EPA is considering undoing the Clean Power Plan,” he said. “It won't be moot unless and until EPA actually finalizes a new rule to undo the plan.”

The Environmental Protection Agency will need about a year to administratively remove the CPP from the federal regulatory landscape, while justifying that reversal, allowing for public comment and still meeting its Clean Air Act obligations. The result will almost certainly be challenged by the same green groups and states that initially defended the rule.

“The EPA cannot simply dismantle the Clean Power Plan and leave nothing in its place,” New York Attorney General Eric Schneiderman, a Democrat, said Tuesday on behalf of 18 states that intervened in the court case in support of the rule. “This is not a situation where they can just junk the regulations.”

The Obama rule was designed to limit polluting coal-fired power plants in favor of green energy, such as wind and solar. Trump's EPA Administrator, Scott Pruitt, has asked the court, which heard arguments over the plan's merits in September, to put the case on hold while his agency and the administration review it.

“The Clean Power Plan is under close scrutiny by the EPA, and the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions,” the EPA said in its court filing late Tuesday.

The Republican Pruitt, while serving as Oklahoma attorney general, was one of the first officials who sued in October 2015 to strike down the former president's plan to reduce carbon emissions to 32 percent below what they were in 2005. While 27 states had been part of that effort, North Carolina—whose new governor and attorney general are both Democrats—dropped out of the case.

Not Without Risk

New York, 17 other states and the District of Columbia intervened in that suit in the plan's defense.

The Pruitt-led EPA is essentially telling the court not to bother deciding the case because the plan won't go into effect. Judges don't have to agree. Schneiderman has promised to press for a ruling, a move that is not without risk for the plan's supporters.

If the Clean Power Plan is ultimately upheld by the courts, the Trump administration would have to acknowledge that it could stick with the plan but, as a matter of policy discretion, decided not to do so, Villanova's Aagaard said.

“Of course, if either the D.C. Circuit or Supreme Court were to hold that the Clean Power Plan is invalid, EPA wouldn't even have to undertake a rule-making to kill the plan -- it would already be dead,” he said.

The plan is “legally valid,” Schneiderman said, and it's “extraordinarily unusual” for one party to say it doesn't want a ruling so far along in the case.

Roiled Industry

The Obama rule roiled the energy industry when it was unveiled in 2015. The plan dictates specific carbon-cutting targets based on the amount of greenhouse gases states released while generating electricity in 2012. It followed the EPA's landmark 2009 determination that greenhouse-gas emissions endanger the public's health and welfare.

Pruitt, who has also discounted the role of carbon dioxide as the main driver for climate change, helped lead the charge for states opposing the plan in arguing that its goal to shift power generation away from coal and toward cleaner sources would force the creation of a “new energy economy.”

First to sue, though, was West Virginia Attorney General Patrick Morrisey, who hailed Trump's decision to roll back the regulations. In a phone interview, Morrisey called the plan “one of the most egregious and unlawful regulations that we've seen in many many years.”

Trump campaigned on a vow to bring back coal jobs. He told a crowd in Kentucky on March 20 that the administration will turn the EPA “from a job killer into a job creator.”

The Justice Department late March 28 also asked the D.C. Circuit to halt progress in litigation over EPA's carbon standards for new power plants, which established a requirement that any new coal-fired power plant be equipped with carbon capture technology (North Dakota v. EPA, D.C. Cir., No. 15-1381, motion filed 3/28/17).

The administration's request comes about three weeks before the court is scheduled to hear oral arguments over the regulation on new power plants. The Clean Air Act required the EPA to establish standards for new power plants as a prerequisite for regulating existing plants through the Clean Power Plan.

Bloomberg BNA

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House Passes Bill Requiring Science in EPA Rules to Be Public

By Rachel Leven 3/30/17

A House-passed bill would require science and data used in EPA regulations or assessments to be made public.

The 228-194 vote March 29 was an unsurprising outcome, given passage of a similar bill by a 241-175 House vote last session.

Supporters of the Honest and Open New EPA Science Treatment Act of 2017 (H.R. 1430), sponsored by House Science, Space, and Technology Committee Chairman Lamar Smith (R-Texas), said it would provide transparency into science used in certain Environmental Protection Agency actions. Critics said the bill would bog down further an already slow regulatory process and block the agency from using important science in its decisions.

The bill now heads to the Senate, where new Environment and Public Works Committee Chairman John Barrasso (R-Wyo.) has indicated an openness to addressing the issue, a Barrasso spokesman said. The committee never held a hearing on last session's version of the bill, the Secret Science Reform Act of 2015 (H.R. 1030).

The measure, which would amend the Environmental Research, Development, and

Demonstration Authorization Act of 1978, is supported by groups including the American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The House Science, Space and Technology Committee approved H.R. 1430 March 9 by a 17-12 vote along party lines. The Congressional Budget Office hasn't released a cost estimate related to the bill.

Bloomberg

<https://www.bloomberg.com/politics/articles/2017-03-29/volkswagen-says-it-has-epa-approval-to-sell-repaired-diesels>

Volkswagen Says It Has EPA Approval to Sell Repaired Diesels

By Ryan Beene 3/30/17 3:30 AM

Volkswagen AG will soon do what's been impossible since its emissions crisis began: sell diesel-powered cars in the U.S.

The company received approval from the Environmental Protection Agency for its dealers to sell 2015 model year diesels after updating the vehicles' emissions software, VW Group of America spokeswoman Jeannine Ginivan said.

The software update is part of a required emissions repair approved by the EPA and California Air Resources Board. The repair will also include changes to diesel engine hardware, but dealers do not have to wait until the repair parts become available early next year, Ginivan said.

"We are still finalizing the details of this program and will provide more information on its implementation at the appropriate time," Ginivan said in a statement.

Volkswagen admitted 18 months ago to rigging nearly 500,000 diesel cars to pass U.S. emissions tests. The Wolfsburg, Germany based company froze sales of new and certified used diesels in the U.S. while it worked with regulators on an approved fix. The company has put aside \$24 billion (22.6 billion euros) to cover costs and fines related to the scandal.

The shares were little changed at 136.50 euros at 9:19 a.m. in Frankfurt trading, bringing the decline since the scandal broke in September 2015 to about 16 percent.

Significant Milestone

Reviving diesel sales marks a significant milestone in VW's efforts to recover from the scandal and rebuild its relationship with environmental regulators. It also returns a key product to dealer

showrooms that attracted a cult-like customer base and accounted for about 20 percent of the VW brand's pre-scandal sales.

Yet it's a mostly symbolic step. The sales approval only applies to about 67,000 diesels from the 2015 model, about 12,000 of which are currently in dealer inventory, Ginivan said.

An EPA spokeswoman didn't immediately return messages seeking comment.

Volkswagen has also said no new diesel models will be offered in the U.S. at least through model year 2018. The company is moving aggressively toward electric vehicles, signaling a diminishing role for diesel engines in the company's portfolio, especially in the U.S.

The program will also eventually include used 2015 diesels the company has repurchased from owners through the 2016 settlement with U.S. regulators and owners, Ginivan said. Some customers have elected to keep their cars and receive restitution and an emissions repair under the terms of its \$10 billion buyback.

While diesel engines are more fuel efficient than their gasoline counterparts and are found in about half of new passenger cars sold in Europe in part due to tax breaks, they never fully caught on in the U.S., accounting for less than three percent of deliveries.

E&E News

<http://www.eenews.net/climatewire/2017/03/30/stories/1060052328>

On balance, the world wants Trump to stay

By Jean Chemnick 3/30/17

The world is prepared to put up with quite a lot to keep the United States in the Paris climate deal.

If White House officials who want the United States to remain part of the 2015 agreement prevail in what appears to be an ongoing tug of war within the administration, the trade-off is likely to be weaker emissions commitments and no new climate aid for the remainder of President Trump's term. Even then, the administration could make new demands in forthcoming negotiations that could complicate the delicate deal among nearly 200 nations.

Still, most climate diplomats and environmentalist observers say they would rather deal with a Trump team than lose the United States altogether.

"I don't think it would be seen as an advantage to have the United States out, if for no other reason than that countries will be very hopeful that this is a time-limited bump in the road," said former State Department Special Envoy for Climate Change Todd Stern. "And it is a lot more useful to have the U.S. still in the regime, so that when things eventually turn around in Washington, then the U.S. is there, rather than you've got to go through the whole aggravation of them not being there."

Trump this week essentially hollowed out the U.S. Paris pledge when he signed an executive order rolling back Obama-era greenhouse gas regulations that formed the basis of America's international commitments. A new target, or "nationally determined contribution" (NDC), to Paris would likely accompany any decision to stay in the deal, and analysts believe it will be an emissions range consistent with a business-as-usual scenario.

The next weeks are expected to settle whether Trump will stay or go. But a State Department team will attend the next midyear climate talks in Bonn, Germany, a first foray that might shed some light on whether the new administration would assume a role of benign neglect or of outright obstruction if it stays. Even if Trump does move to withdraw soon, the process will take four years, during which time his team could still attend talks and play an active, if diminished, role in setting the rules of the road.

Battle lines within and around the administration are not clearly drawn. Over the weekend, U.S. EPA Administrator Scott Pruitt dismissed Paris as a "bad deal" in an interview on ABC's "This Week," while EPA transition team leader Myron Ebell attacked Secretary of State Rex Tillerson as a "swamp creature" in remarks at a Washington conference for saying during his Senate confirmation process back in January that the United States should maintain a "seat at the table" on Paris.

It's unclear what role, if any, Tillerson is playing in this decision, which will ultimately be made by Trump himself, either with the usual input from advisers or without it. But Trump's daughter Ivanka Trump and son-in-law Jared Kushner were instrumental in slashing language from yesterday's executive order rolling back domestic climate regulations that would have set the wheels in motion for a withdrawal from Paris. And several members of Trump's National Security Council argue for remaining in the deal for pragmatic reasons. Senior adviser Steve Bannon does not.

Still, Stern said he assumes that if the United States remains in the deal, it will not try to ruin it from within.

"I don't think that they're going to diabolically say, 'Let's stay in so we can throw bombs,'" he said.

"A seat at the table doesn't generally mean a seat at the table with a grenade in your hand," Stern added. Still, he acknowledged, if the new negotiating team were extraordinarily unconstructive, that might prompt some partners to wish it had just made an exit.

Should the U.S. help write the rulebook?

But a future administration might find it complicated to re-enter Paris, while an exit from the underlying U.N. Framework Convention on Climate Change (UNFCCC) would likely mean the United States would have to stay out of the deal for good. It would be very difficult for a future administration to wrangle 60 Senate votes in the future to rejoin the treaty.

And a regime without the United States is likely to be less effective in the long run.

"I can't envision a world in which it would be better for the U.S. to pull out in terms of keeping the agreement together or keeping others on board," said Kate Larsen, climate director of the Rhodium Group and a former State Department negotiator during both the George W. Bush and

Obama administrations.

"If the U.S. were to pull out, you would have to believe that at some point, later in the future, when a more sympathetic president is in place, that we'd be able to either rejoin the agreement or negotiate a whole new one," she added.

Paris was the culmination of more than two decades of negotiations that eventually included 196 parties, and that included many setbacks and false starts along the way that threatened to capsize the process.

The United States was frequently a pariah in the process, but usually for arguing, across Democratic and Republican administrations alike, for provisions on transparency, common responsibility across developed and developing countries, and the avoidance of binding language that would require Senate approval for the United States to join.

If the United States were to suddenly withdraw from the process, Larsen said, "the voices for including elements that are problematic for the U.S. get stronger and ultimately win out."

If the United States is not active over the coming two years as the Paris rulebook is being negotiated and written, the next administration could return to a process that has become difficult to join.

Stern noted that the Paris accord made substantial new progress in breaking down past barriers between what the process demanded of developed and developing participants and on transparency — gains he said the United States should continue to guard in the implementation phase.

World waits, strategizes

Climate diplomats and negotiators approached for this story were generally reticent to speak on the record about the future of U.S. participation in Paris. Some worried about being seen to weigh in on domestic U.S. politics, while others feared weighting the scales toward a U.S. exit.

Officials from Europe and elsewhere say they're still assessing who their counterparts are within the Trump White House and State Department.

"It's not under discussion with key climate diplomats," said Christoph Bals of Germanwatch. "They have lots of problems at the moment to find a person in the U.S. government who has a mandate to negotiate this with them. And they are absolutely frustrated in our chancellery that they don't know who the right person [is] to negotiate those kinds of things."

Maros Sefcovic, vice president for the compact's Energy Union, did meet with White House officials earlier in the month, and German Foreign Minister Sigmar Gabriel met with Tillerson and Vice President Mike Pence in February to discuss the agenda his country has set for its presidency of the Group of 20 nations this year, which includes climate change.

German Chancellor Angela Merkel is said to have a personal stake in a strong climate outcome for the G-20, but has so far avoided putting Trump on the spot. She raised climate change during a closed-door lunch with the president during her visit to Washington earlier this month, but did not make a public statement about it. And the Germans watched as Treasury Secretary

Steven Mnuchin stripped long-established language from this year's financial ministers' communiqué for the G-20 that called for the removal of trade barriers, while he banded together with Saudi Arabia's minister to cancel all reference to climate finance. Greens hope climate aid will reappear at the leader-level summit in July, together with a reaffirmation of the Paris deal, but Maeve McLynn of CAN Europe said Mnuchin's heavy-handedness did not bode well for how the United States might perform in upcoming climate talks.

"This is what I'm kind of fearing, that the U.S. will come in and not be willing to compromise on certain things," she said. Both the G-20 and the climate talks operate on consensus, and the United States plays an outsized role.

McLynn said that Europeans are dealing with the uncertainty in Washington by engaging more deeply with other countries. The 28-nation bloc could announce new bilateral efforts with China, Latin America and other nations at summits later this year, and is weighing whether to increase its commitment to climate finance in response to a retreating United States. Outreach to Canada and Mexico is also part of the strategy.

"The message we're getting is, 'Let's not focus too much on Trump and the Trump administration, but then let's start building and strengthening the alliances with the countries around the U.S.,'" said McLynn.

Foreign officials are not offering direct criticism so far of Trump's domestic climate moves, though they seem to be holding fire until the Paris announcement is out.

Jake Schmidt, international climate change director for the Natural Resources Defense Council, said Europe, small island states and other members of the so-called high ambition coalition would be unlikely to accept a weaker NDC without comment.

"Pretending like there's no blowback to changing how you act on climate change is a bit delusional," he said, predicting that a change in Paris commitment would spark a diplomatic pushback.

Dennis Clare, who has negotiated on behalf of small island states within the UNFCCC process, said a major emitter like the United States would set a dangerous precedent if it were to pare back its already-insufficient NDC, though an exit from the deal would "go one step further."

"Most countries would surely lament any diminishment of the collective global response to climate change and the increased human suffering that would cause," he said.

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052317>

Democrats press Pruitt to address conflict of interest

By Ariel Wittenberg 3/20/17

U.S. EPA Administrator Scott Pruitt hasn't responded to requests from Senate Democrats that he address an apparent conflict of interest caused by President Trump's executive order that

directs the agency to review and possibly rescind the Clean Water Rule.

Environmental and Public Works Committee Democrats asked him last week to confirm that he has either recused himself from actions related to the regulation or received permission from ethics officials to remain involved in the rule review (*Greenwire*, March 21).

The letter requested a response "by no later than March 29." A Democratic aide said neither Pruitt nor EPA has responded.

EPA didn't respond to repeated requests for comment for this story.

At issue is a lawsuit Pruitt filed as Oklahoma attorney general against the Obama administration's Clean Water Rule.

The regulation, also known as the Waters of the U.S. rule, or WOTUS, aims to clarify the reach of federal regulations over wetlands and waterways under the Clean Water Act. It was strongly opposed by farmers, land developers and energy companies that said it amounted to federal overreach.

Trump's executive order directs EPA to rescind the regulation and to "promptly notify the Attorney General of the pending review" so that the Department of Justice can decide how to proceed on lawsuits filed against the litigation.

Two days after that order was signed, Pruitt himself signed a notice indicating EPA had begun its review of the regulation.

But Senate Democrats say the executive order creates a conflict of interest for Pruitt because it includes "explicit direction" regarding the lawsuit he filed as Oklahoma attorney general.

Pruitt has signed an ethics agreement stating he would seek authorization from EPA's designated ethics official to "personally and substantially" participate in "particular matters involving the specific parties in which I know the State of Oklahoma is a party or represents a party."

Pruitt also told the committee during his confirmation hearing he would recuse himself from matters related to litigation he filed as attorney general unless he had permission from ethics officials.

Senate Democrats are asking for proof Pruitt has done that.

"Although we all continue to believe," they wrote, "that you should have made more extensive recusals than the ones you committed to, the specific language in section 2(c) of the Order should have triggered even the more limited recusal policy to which you have already and repeatedly agreed."

E&E News

House OKs 'secret science' bill; advisory board bill up today

By Sean Reilly 3/30/17

The House has again passed legislation that would bar U.S. EPA from pursuing new regulations based on science that is not "transparent or reproducible," brushing aside critics' warnings that it would hamstring the agency's ability to protect public health and the environment.

The bill, [H.R. 1430](#), won approval late yesterday by a 228-194 margin after a perfunctory one-hour debate under a closed rule that barred amendments. Three Democrats voted yes; seven Republicans were opposed.

The House approved similar measures titled the "Secret Science Reform Act" in 2014 and 2015. Both then died in the Senate following Obama administration veto threats. Although the latest version, dubbed the "Honest and Open New EPA Science Treatment Act," is certain to play better with President Trump, it still faces uneven odds in the Senate, where 60 votes are needed to move legislation of any significance.

Potentially raising the bar further is a Congressional Budget Office [forecast](#) released after yesterday's vote that estimated that annual implementation costs over the next few years could range from a few million dollars to around \$100 million.

The bill, sponsored by House Science, Space and Technology Chairman Lamar Smith (R-Texas), would require online availability of the research data used in studies undergirding new regulations as a means of allowing independent analysis. "Our goal is to help advance not just any science, but the best science," Smith said during yesterday's floor debate.

As they have in the past, Smith and other Republicans portrayed the bill as an open-government measure intended to shed light on the research behind EPA rules that can sometimes carry a considerable economic wallop.

"It's like they have a little black box over there; they don't ever let anyone else look into it," said Rep. Brian Babin (R-Texas). "Show us your data."

Critics, however, see the legislation's purported purpose as anything but honest. Instead, they have argued, it would make it easier for industry to bring lawsuits against new rules, while making it harder for EPA to tap important research because the results of studies based on large data sets aren't easily reproducible.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee's ranking member, described the bill as even worse than its two predecessors and said it would stifle EPA's ability to protect public health. "Unfortunately in this case," Johnson said, "the third time is not the charm."

Democrats also questioned the value of a newly added exemption for personally identifiable and sensitive business information from the internet posting requirements, given that the data could still be obtained through a confidentiality agreement with the EPA administrator.

An even bigger question mark hovers over the bill's potential cost.

A 2015 Congressional Budget Office analysis of a similar measure pegged the annual price tag for the first couple of years at \$250 million. During yesterday's debate, Smith said that reading was a misinterpretation of the implementation requirements.

But the CBO score for H.R. 1430, released after yesterday's vote, signaled that the expense for EPA could still be substantial, even as the agency faces a 31 percent cut under Trump's proposed budget for next year.

Although the final tab would hinge in part on how much money EPA chooses to invest in "infrastructure" to make researchers' data more widely available, the overall amount could range from several million dollars per year to more than \$100 million per year "to ensure that data and other information underlying studies are publicly available in a format sufficient to allow others to substantially reproduce the results," the CBO analysis said. Based on the "minimal" approach that EPA officials say they plan to take, however, the budget office pegged total spending from 2018 through 2022 at \$5 million.

Earlier this week, Smith had predicted the implementation cost would be "minuscule" (*E&E Daily*, March 28). His legislation would cap EPA's annual spending at \$1 million, or roughly in line with what agency officials told CBO they would use.

Smith's bill is traveling in tandem with H.R. 1431, a separate measure by Rep. Frank Lucas (R-Okla.) to revamp membership requirements for EPA's Science Advisory Board. Earlier in the day, the House cleared the latter bill on a 232-188 vote for debate this morning. It will probably pass by lunchtime.

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/30/new-trailer-for-al-gores-inconvenient-truth-shows-president-trump-as-climate-change-villain/?utm_term=.775755b36688

New trailer for Al Gore's 'Inconvenient Truth' sequel shows President Trump as climate change villain

By Ben Guarino 3/30/17, 3:01AM

The trailer for "An Inconvenient Sequel: Truth to Power," the second film in Al Gore's franchise of climate change documentaries, depicts President Trump as an antagonist. The clip that Gore shared via Twitter on Wednesday shows the president at [an airport rally](#) held last April in Rochester, N.Y., where then-candidate Trump mocks the climate science consensus.

"It's supposed to be 70 degrees today," Trump says. "It's freezing here! Speaking of global warming, where is — we need some global warming!"

As for Gore, the trailer vindicates the former vice president's climate change predictions. Gore says that the most criticized part of 2006's "Inconvenient Truth," which won a [documentary feature](#) Oscar in 2007, was the notion that the World Trade Center Memorial could flood from rising sea levels and stronger storm surges. Smash cut to 2012 — "Hurricane Sandy slammed into New York City last night, flooding the World Trade Center site," a newscaster says in the trailer.

The trailer jumps from the devastation wreaked by extreme weather events to shots of green energy infrastructure and Gore pumping the hand of Canadian Prime Minister Justin Trudeau.

And then, halfway through, the screen goes to black. Enter Trump.

The trailer showcases another Trump campaign rally speech. "It's time to put America first," he says. "That includes the promise to cancel billions in climate change spending."

Trump's statements have frequently missed the mark on climate change. In a December interview with Fox News, Trump said he was "open-minded" on the subject. But his other stances have veered from conspiracy — Trump infamously called global warming a Chinese hoax, in a Twitter post that he later shrugged off as a joke — to skepticism. He told The Washington Post editorial board in March 2016 that he was "not a great believer in man-made climate change."

At least one of his businesses, however, acknowledges the threat posed by rising oceans; the Trump International Golf Links Ireland cited global warming in its 2016 application seeking a permit for a protective sea wall.

Gore has frequently demurred from attacking Trump's climate change views. In fact, he characterized a December meeting with Trump at Trump Tower in Manhattan as constructive. "I had a lengthy and very productive session with the president-elect. It was a sincere search for areas of common ground," Gore said of his 90-minute lunch meeting, as The Washington Post reported at the time. "I had a meeting beforehand with Ivanka Trump. The bulk of the time was with the president-elect, Donald Trump. I found it an extremely interesting conversation, and to be continued, and I'm just going to leave it at that."

When "An Inconvenient Sequel: Truth to Power" debuted at the 2017 Sundance Film Festival in January, Variety commented on the fact that Gore did not mention Trump by name. Gore told the Sundance crowd only that, in the realm of climate change setbacks, "now we have another," as Variety reported. Gore also opposed Trump's decision to appoint Scott Pruitt, a critic of climate change science, to head the Environmental Protection Agency.

Al Gore meets with Donald Trump

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation "extremely interesting." (The Washington Post)

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation "extremely interesting." Former vice president Al Gore speaks to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York. (Photo: AP/The Washington Post)

In mid-March, Gore expressed optimism that Trump would not withdraw the U.S. from the 2015 Paris climate accord, an agreement in which the country would curb greenhouse gas emissions. Trump has wavered between a public declaration to "cancel" the agreement and saying he had an "open mind" on pulling out.

On the same day that Gore tweeted the new trailer, the House Science Committee held a climate change panel thick with political theater, as The Post reported, but scant by way of practical solutions. The day prior, Trump signed an executive order to boost the coal industry that also allows federal officials to disregard a previous requirement to consider climate change during decision-making processes.

Washington Post

https://www.washingtonpost.com/news/fact-checker/wp/2017/03/30/the-white-houses-claim-that-the-carbon-emissions-rule-could-cost-up-to-39-billion-a-year/?utm_term=.947656cfb127

The White House's claim that the carbon emissions rule 'could cost up to \$39 billion a year'

By Michelle Ye Hee Lee 3/30/17, 3:00AM

"The previous administration's Clean Power Plan could cost up to \$39 billion a year ... according to NERA Economic Consulting."

–White House fact sheet, March 28, 2017

President Trump has started rolling back Obama-era environmental protections, including directing federal regulators to rewrite federal rules to reduce carbon emissions.

The Clean Power Plan, a flagship environmental regulatory rule of the Obama administration, proposes to cut carbon emissions from existing power plants 30 percent below 2005 levels by 2030. It has been placed on hold while under litigation.

Proponents of the rule say it will improve public health and the United States would set an example for other countries to curb carbon emissions. Opponents say the plan will have minimal impact on the environment while driving up costs for consumers. The Fact Checker obviously takes no position on the rule.

A fact sheet about the March 28 executive order on Obama-era climate protections estimated the cost of the Clean Power Plan at up to \$39 billion. How accurate is this estimate? Who exactly is NERA Economic Consulting? And why isn't the White House using estimates by the Energy Information Administration (EIA) or the Environmental Protection Agency?

The Facts

Studies on the cost impact of the rule are built on different sets of assumptions, making it hard to make apples-to-apples comparisons. These studies compare how the energy industry and consumers would be affected in the absence of the new carbon emissions rule.

States have wide latitude in complying with the federal rule. Costs can vary depending on state, regional or local policymakers' decisions. Emissions and power plants can cross state boundaries, so states can coordinate with each other to lower costs.

There are assumptions made about the types of actions states will take after the rule takes effect, and what role renewables and natural gas energy will play. That means there are a lot of unknowns in cost estimates. That's an important caveat.

The NERA Economic Consulting's November 2015 study that the White House cites is commissioned by the American Coalition for Clean Coal Electricity, which opposes the Clean Power Plan. The Fact Checker always warns readers to be skeptical of industry-funded research. The \$39 billion is the high end of the \$29 billion-to-\$39 billion range of potential costs on the U.S. fossil-energy sector, under one method of compliance in the emissions rule.

Critics of the study say there are key assumptions that inflate costs.

It makes conservative baseline calculations about the impact of renewable energy policies, said David G. Victor, director of the Laboratory on International Law and Regulation at University of California-San Diego. Those policies would reduce the amount of emissions even before any costs of the Clean Power Plan are incurred. NERA Economic Consulting said that the cost of renewables do not actually have a major effect on its estimates of the rule's costs.

The study relies on outdated cost figures for renewable energy and energy efficiency, according to the National Resources Defense Council, which is critical of this study. Its modeling is based on figures published by the EIA in its 2015 report, which "severely underestimates renewable growth and overestimates costs of new renewable generation," according to the environmental group, which supports the Clean Power Plan.

The study also makes different assumptions about allocations of allowance costs for the electricity companies. This may have led to higher electricity price increases compared to the assumptions in other studies, including one by the EIA. However, EIA's study is not an apples-to-apples comparison to the one by NERA Economic Consulting.

Clean energy advocates say the study ignores long-term benefits of energy efficiency programs, and that the rule could even lead to people saving money. The EPA and EIA fall somewhere in between those advocates and the study by NERA Economic Consulting; those agencies estimate that electricity prices would rise slightly at first but fall later, according to E&E News.

The EPA estimates that by 2030, the benefits of the rule (\$34 billion to \$54 billion) will outweigh the costs of complying with new regulations (\$8 billion).

The White House did not respond to our request for comment.

The Pinocchio Test

The White House used a statistic by an industry-backed study to claim that the Clean Power Plan could cost "up to \$39 billion a year." While this wording indicates that it's the highest end of the spectrum of costs, it creates a misleading impression that this is a definitive cost.

In reality, there are too many unknowns to cite a statistic like this with no context. The study the White House cites is based on a series of assumptions that are not comparable to ones made by the EIA, a credible government agency of career statisticians and researchers crunching data. We know the new White House isn't a fan of government statistics produced under the previous administration, but eventually, the administration won't be able to just rely on industry estimates and claims.

Huffington Post

http://www.huffingtonpost.com/entry/heartland-institute-climate-pack_us_58db4c63e4b05463706323d4

Climate Change-Deniers ‘Spam’ Thousands Of Teachers With Anti Global Warming Packages

By Nick Visser 3/30/17, 7:15AM

One of America’s most prominent climate-denying groups, galvanized by the Trump administration listening to their claims, has set its sights on a new target: teachers.

The Heartland Institute, a conservative think tank that’s become one of the loudest voices when it comes to climate denial, has sent more than 25,000 science teachers across the country a package of material it hopes they’ll use in the classroom, according to a report from PBS Frontline.

Alongside a note from Lennie Jarratt, the group’s project manager for transforming education, the package contains a book called *Why Scientists Disagree About Global Warming* and a 10-minute video about using their guidance.

“I’m writing to ask you to consider the possibility that the science in fact is not ‘settled,’” Jarratt says in the memo. “If that’s the case, then students would be better served by letting them know a vibrant debate is taking place among scientists on how big the human impact on climate is, and whether or not we should be worried about it.”

However, there’s near universal consensus among climate researchers that the planet is warming — rapidly — and human-induced greenhouse gas emissions are the primary cause. Earth experienced its hottest year on record in 2016, and officials have warned we’re running out of time to address the threat of climate change.

Jim Lakely, the Heartland Institute’s director of communications, confirmed thousands of copies of the group’s book have been sent out, and more are yet to come.

“The number put out by PBS Frontline might be low before it’s all done. We’ll see,” he said in an

email. "We're mailing out the material because the science is not 'settled' when it comes to what are the causes and consequences of climate change."

The packages have already drawn swift rebuke.

"It's not science, but it's dressed up to look like science," Ann Reid, the executive director of the National Center for Science Education told Frontline. "It's clearly intended to confuse teachers."

The National Council for Special Education published survey findings this month that 75 percent of public science educators devote time to teaching about climate change. But around 30 percent of the 1,500 teachers surveyed cast doubt on the cause, disputing scientific consensus about the phenomenon.

Some teachers expressed their dismay on Twitter at receiving the Heartland Institute packages:

@Matthewrcover: Received this junk in my university mailbox today. Thanks but no thanks
#HeartlandInstitute

@sustainteach: After teaching about #climatechange all day, it was kind that the Heartland Institute, an organization funded by petroleum, sent me this.

@SanRaider25: Oh look, the Heartland Institute sent me a care package. And they want my feedback. #science #ActOnClimate

@CityLightsUF: The Heartland Institute is spamming my workplace with b*****t.

Heartland has been riding high since the election of President Donald Trump, a who's called climate change a hoax invented by the Chinese. The group hosted its 12th annual conference on climate denial this month. The event drew pro-Trump billionaire Robert Mercer and his daughter Rebekah Mercer, along with Myron Ebell, the man in charge of the Trump campaign's transition at the Environmental Protection Agency.

Lakely said the group has been “meeting a demand” with the packages and that it’s been “contacted by many teachers who’ve asked us for science-based materials that will help them tell their students the truth.”

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The Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump’s EPA Won’t Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17 8:33 AM

President Donald Trump’s Environmental Protection Agency (EPA) rejected environmentalists’ demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA’s own analysis found that “there do not appear to be risks from exposure to chlorpyrifos in food.” The agency’s own website says chlorpyrifos is safe for humans in “standard” amounts.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a press statement. “By reversing the previous Administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results.”

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA’s attempts to ban the pesticide.

“Dow AgroSciences supports U.S. Environmental Protection Agency’s (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos,” the company said in a statement. “Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the

right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops.”

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled “Protect Our Children’s Brains.”

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn’t completed its assessment of the pesticide’s effects on drinking water and that “certain science issues” regarding chlorpyrifos are “unresolved.”

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, “the risks of pesticides in the diet are remote, long-term, and theoretical, and there is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

New York Times

<https://www.nytimes.com/2017/03/29/us/politics/epa-insecticide-chlorpyrifos.html>

E.P.A. Chief, Rejecting Agency’s Science, Chooses Not to Ban Insecticide

By Eric Lipton 3/29/17

WASHINGTON — Scott Pruitt, the head of the Environmental Protection Agency, moved late on Wednesday to reject the scientific conclusion of the agency’s own chemical safety experts who

under the Obama administration recommended that one of the nation's most widely used insecticides be permanently banned at farms nationwide because of the harm it potentially causes children and farm workers.

The ruling by Mr. Pruitt, in one of his first formal actions as the nation's top environmental official, rejected a petition filed a decade ago by two environmental groups that had asked that the agency ban all uses of chlorpyrifos. The chemical was banned in 2000 for use in most household settings, but still today is used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples.

Late last year, and based in part on research conducted at Columbia University, E.P.A. scientists concluded that exposure to the chemical that has been in use since 1965 was potentially causing significant health consequences. They included learning and memory declines, particularly among farm workers and young children who may be exposed through drinking water and other sources.

But Dow Chemical, which makes the product, along with farm groups that use it, had argued that the science demonstrating that chlorpyrifos caused such harm is inconclusive — especially when properly used to kill crop-spoiling insects.

An E.P.A. scientific review panel made up of academic experts last July also had raised questions about some of the conclusions the chemical safety staff had reached. That led the staff to revise the way it had justified its findings of harm, although the agency employees as of late last year still concluded that the chemical should be banned.

Mr. Pruitt, in an announcement issued Wednesday night, said the agency needed to study the science more.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Mr. Pruitt said in his statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

The United States Department of Agriculture, which works close with the nation's farmers, supported Mr. Pruitt's action.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation,” Sheryl Kunickis, director of the U.S.D.A. Office of Pest Management Policy, said in a statement Wednesday.

Dow Agrosciences, the division that sells the product, also praised the ruling, calling it in a statement “the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops.”

But Jim Jones, who ran the chemical safety unit at the E.P.A. for five years, and spent more than 20 years working there until he left the agency in January when President Trump took office, said he was disappointed by Mr. Pruitt's action.

“They are ignoring the science that is pretty solid,” Mr. Jones said, adding that he believed the

ruling would put farm workers and exposed children at unnecessary risk.

The ruling is, in some ways, more consequential than the higher profile move by Mr. Trump on Tuesday to order the start of rolling back Obama administration rules related to coal-burning power plants and climate change.

In rejecting the pesticide ban, Mr. Pruitt took what is known as a “final agency action” on the question of the safety and use of chlorpyrifos, suggesting that the matter would not likely be revisited until 2022, the next time the E.P.A. is formally required to re-evaluate the safety of the pesticide.

Mr. Pruitt’s move was immediately condemned by environmental groups, which said it showed that the Trump administration cared more about catering to the demands of major corporate players, like Dow Chemical, than the health and safety of families nationwide.

“We have a law that requires the E.P.A. to ban pesticides that it cannot determine are safe, and the E.P.A. has repeatedly said this pesticide is not safe,” said Patti Goldman, managing attorney at Earthjustice, a San Francisco-based environmental group that serves as the legal team for the Natural Resources Defense Council and the Pesticide Action Network of North America, which filed the petition in 2007 to ban the product.

The agency had been under court order to issue a ruling on the petition by Friday. The environmental groups intend to return to the Ninth Circuit Court of Appeals in San Francisco to ask judges to order the agency to “take action to protect children from this pesticide” Ms. Goldman said on Wednesday.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/29/trump-epa-declines-to-ban-pesticide-that-obama-had-proposed-outlawing/?utm_term=.f43b3a7e2977

Trump EPA declines to ban pesticide that Obama had proposed outlawing

By Brady Dennis 3/29/17, 5:20PM

The new head of the Environmental Protection Agency refused Wednesday to ban a commonly used pesticide that the Obama administration had sought to outlaw based on mounting concerns about its risks to human health.

The chemical compound chlorpyrifos, also known as Lorsban, has been used by farmers for more than a half-century to kill pests on crops including broccoli, strawberries and citrus. The EPA banned its spraying indoors to combat household bugs more than a decade ago. But only in recent years did the agency seek to ban its use in agriculture, after mounting scientific evidence that prenatal exposure can pose risks to fetal brain and nervous system development.

Under President Barack Obama, the EPA proposed in 2015 to revoke all uses of chlorpyrifos on food — a move taken in response to a petition filed by the Natural Resources Defense Council and Pesticide Action Network North America. A federal judge had given the EPA until Friday to decide whether to finalize its ban of the pesticide.

On Wednesday, EPA Administrator Scott Pruitt decided the answer would be no.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

His statement argued that the “public record lays out serious scientific concerns and substantive process gaps in the proposal.”

Sheryl Kunickis, director of the Office of Pest Management Policy at the Department of Agriculture, agreed with the decision.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world,” she said in a statement. “This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

The chemical industry also pushed hard against a chlorpyrifos ban. Dow AgroSciences, which manufactures the pesticide, said late last year that the Obama administration’s assessment of its safety “lacks scientific rigor.” The company said it “remains confident that authorized uses of chlorpyrifos products, as directed, offer wide margins of protection for human health and safety.”

But dozens of scientific researchers, doctors and public health professionals had joined the

environmental groups in urging the EPA to prohibit all use of chlorpyrifos.

“With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains,” a group of supporters wrote in a letter to the agency early this year. “We strongly urge EPA to finalize its assessment and cancel all remaining uses of chlorpyrifos as expeditiously as possible.”

Environmental activists were incensed Wednesday, saying that Pruitt had ignored substantial evidence of potential harms.

“The chance to prevent brain damage in children was a low bar for most of Scott Pruitt’s predecessors, but it apparently just wasn’t persuasive enough for an administrator who isn’t sure if banning lead from gasoline was a good idea,” Environmental Working Group president Ken Cook said in a statement. “Instead, in one of his first major decisions as head of the EPA, like a toddler running toward his parents, Pruitt leaped into the warm and waiting arms of the pesticide industry.”

InsideEPA

<https://insideepa.com/daily-news/pruitt-woos-conservatives-ghg-risk-finding-offers-no-firm-promise>

Pruitt Woos Conservatives On GHG Risk Finding But Offers No Firm Promise

By Doug Obey 3/29/17

EPA Administrator Scott Pruitt is offering assurances to his most conservative critics that he is committed to scuttling numerous Obama-era climate policies -- while leaving the door open to efforts to repeal the agency's landmark greenhouse gas endangerment finding -- after a conservative columnist called for his resignation because of a lack of action so far on the finding.

In a [March 28 interview](#) with *Breitbart* -- the hard-line conservative news outlet formerly run by White House chief strategist Steve Bannon -- Pruitt said he will eventually respond to petitions

that have been filed seeking to roll back the GHG endangerment finding, the legal basis for EPA's climate rules and an effective requirement of the Supreme Court's ruling in *Massachusetts v. EPA*.

“I think that if there are petitions for reconsideration for the [endangerment finding], we’ll have to address those at some point,” Pruitt said in the interview. “Our objective, and our role, is to do what the law requires.”

He does not mention that there are currently as many as three petitions pending at the agency to reconsider the landmark risk finding.

Pruitt's comments underscore the political and legal awkwardness of President Donald Trump's executive order to review or scrap numerous climate policies, such as EPA's Clean Power Plan, but not the endangerment finding.

Many of the administration's most conservative supporters are concerned that the order does not go far enough in calling for officials to reconsider the endangerment finding, fearing it will undercut administration efforts to rescind climate rules.

Many observers have long asserted that the Clean Air Act still obligates the agency to act on GHGs even in the absence of the regulations Trump is seeking to roll back, meaning that the conservatives' hope of scrapping the GHG risk finding might be legally infeasible.

One of those critics, *Breitbart* columnist James Delingpole in a March 27 column argued that Pruitt should resign if he cannot follow through with efforts to scrap the finding.

He cited reports that Pruitt resisted including a reference to the endangerment finding in the executive order and suggested that he may have done so because he wants to appear more moderate as he is interested in running for the Senate seat expected to be vacated by Sen. James Inhofe (R-OK).

Awkward Line

Pruitt in the interview with *Breitbart* emphasizes themes likely to appeal to a conservative audience amid an ongoing Senate confirmation battle over Trump's Supreme Court pick, defending “EPA originalism,” defined as adhering to Congress' original authorities.

Pruitt also touts plans to rein in alleged agency overreach. “We’re going to roll it back, those things that were unlawful, we’re going to roll back those things that were an overreach, we’re going to roll back the steps taken by the previous administration.”

Pruitt has walked an awkward public line on the GHG finding even while repeatedly criticizing specific Obama climate change programs, suggesting during his Senate confirmation process that getting rid of the finding is not a priority.

At the time, Pruitt did not rule out any EPA action on the issue but called the finding the “law of the land,” appearing to offer a political shield to lawmakers that they would not be branded climate skeptics simply for voting for him.

But since his confirmation, Pruitt declared in a *CNBC* interview that carbon dioxide is not a “primary contributor” to global warming, sparking widespread blowback from scientists and others and appearing to refute the EPA finding.

His *Breitbart* interview also wades into non-climate topics, including a stated goal of refocusing the agency away from climate change and on to 1,300 Superfund sites that have lingered on the agency's National Priorities List.

That goal, however, appears to clash with preliminary Trump administration budget requests that would impose a massive 31 percent cut on the agency and appears to include significant cuts to both Superfund and brownfields programs, based upon analysis by former EPA employees.

Sources outside the agency say they believe that Pruitt has successfully fought off some

proposed brownfields-related cuts, but that budget threats in those areas remain. -- *Doug Obey*
(dobey@iwpnews.com)

Agri-Pulse

<https://www.agri-pulse.com/articles/9113-epa-rejects-petition-to-revoke-chlorpyrifos-tolerances>

EPA rejects petition to revoke chlorpyrifos tolerances

By Steve Davies 3/29/17, 10:03PM

WASHINGTON, March 29, 2017 - The Environmental Protection Agency has decided to continue allowing the use of the insecticide chlorpyrifos, stating that the science surrounding human health effects is too uncertain to justify its own proposed ban on food tolerances.

The agency announced the [decision](#) late today, two days ahead of a court-ordered deadline. The [Natural Resources Defense Council](#) and Pesticide Action Network had petitioned the agency 10 years ago to ban Dow AgroSciences' organophosphate insecticide (tradename: Lorsban), which is used to control a variety of crop pests, including corn rootworm and soybean aphid.

The groups have argued that food residue levels are high enough to pose a risk to the developing brain and nervous system.

But EPA said in its news release that its October 2015 proposal to revoke food tolerances "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

An EPA Scientific Advisory Panel convened to examine the epidemiological data used by the agency [questioned](#) the agency's use of a Columbia University study that relied on umbilical cord blood data from pregnant women to extrapolate exposure levels for children. The SAP released its report last summer.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," EPA Administrator Scott Pruitt said. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

The National Association of State Departments of Agriculture (NASDA) was quick to praise the decision.

"By maintaining the Maximum Residue Limits for chlorpyrifos, agricultural use of this important tool will continue, significant disruption of international trade is avoided, and harmonization efforts may continue globally," NASDA President and Louisiana Commissioner of Agriculture & Forestry Mike Strain said. "As state regulatory partners with EPA, we look forward to continuing to work with the agency to ensure current and future tools are reviewed in a rigorous,

scientifically sound, and transparent manner.”

USDA also was pleased. Sheryl Kunickis, director of the department’s Office of Pest Management Policy, said the decision “means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world.”

Kunickis also said it was “great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables,” and added, “We thank our colleagues at EPA for their hard work.”

Chlorpyrifos is used on more than 50 crops, including soybeans, alfalfa, wheat, citrus, fruit, tree nuts, vegetables, sugarbeets and cotton, CropLife America said in a brief filed in the 9th Circuit Court of Appeals. It is “the leading insecticide active ingredient to control a number of different insects in crops, including soybean aphids in soybeans, aphids and armyworm in alfalfa, European asparagus aphid and cutworm in asparagus, corn rootworm and lesser cornstalk borer in peanuts, and leafrollers and San Jose scale in apples.”

“The public record lays out serious scientific concerns and substantive process gaps in the proposal,” EPA said in its release. “Reliable data, overwhelming in both quantity and quality, contradicts the reliance on – and misapplication of – studies to establish the end points and conclusions used to rationalize the proposal.”

In its order denying the petition, EPA said it has “concluded that, despite several years of study, the science addressing neurodevelopmental effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos.”

The agency “has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues. As noted, Congress has provided that EPA must complete registration review by October 1, 2022.”

In the days leading up to the decision, environmental groups had mobilized to muster support for the proposed tolerance revocation. The Environmental Working Group collected signatures for an [online petition](#), saying that “research has linked chlorpyrifos to nervous system damage, behavioral problems and lower IQ in young children whose mothers were exposed during pregnancy. In adults, low-level exposure to chlorpyrifos can cause nausea, headaches and dizziness. Farmworkers and others who are severely exposed have suffered vomiting, muscle cramps, diarrhea, blurred vision, loss of consciousness and even paralysis.”

DTN

<https://www.dtnpf.com/agriculture/web/ag/news/crops/article/2017/03/30/epa-disagrees-previous-tact>

EPA: No Chlorpyrifos Ban

By Todd Neeley 3/29/17, 7:38PM

OMAHA (DTN) -- The pesticide ingredient chlorpyrifos will not be banned by the U.S. Environmental Protection Agency, according to a news release issued by the agency late Wednesday afternoon.

EPA Administrator Scott Pruitt announced the agency denied a petition filed by environmental groups to ban the pesticide outright, saying in a statement that farmers need chlorpyrifos.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making rather than predetermined results."

Chlorpyrifos is the main ingredient in Lorsban, Dow AgroSciences' organophosphate insecticide targeting pests such as soybean aphids, spider mites and corn rootworm.

Since being sworn in as EPA administrator, Pruitt has begun the process of turning back regulations created during the previous administration.

Dow AgroSciences said in a statement to DTN Wednesday evening that the company was pleased with EPA's decision.

"Dow AgroSciences supports U.S. Environmental Protection Agency's decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in its statement.

"Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops. We will continue to cooperate with EPA under the established regulatory process in its scientific review of this vital crop protection solution."

Sheryl Kunickis, director of the Office of Pest Management Policy at USDA, said in a statement it was important to keep chlorpyrifos available to farmers.

"This is a welcome decision grounded in evidence and science," she said. "It means that this important pest-management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world."

"This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States. It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables."

In a news release Wednesday evening, EPA said "the public record lays out serious scientific concerns and substantive process gaps in the proposal. Reliable data, overwhelming in both quantity and quality, contradicts the reliance on, and misapplication of, studies to establish the end points and conclusions used to rationalize the proposal."

The EPA said USDA "disagrees with the methodology" used by the previous administration.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," EPA said in its release.

"The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) also expressed concerns with regard to EPA's previous reliance on certain data the agency had used to support its proposal to ban the pesticide."

The road to the proposed chlorpyrifos ban began when the Pesticide Action Network North America and Natural Resources Defense Council filed a petition in 2007 to force EPA to take action on chlorpyrifos, based on concerns over drinking water. In June 2015, the U.S. Ninth Circuit Court of Appeals issued a ruling pressuring EPA to make a decision by Oct. 31, 2015, on whether or not it would establish food tolerances for the insecticide. EPA stated it did not have the data needed to do so and instead would pursue a ban.

Last summer, EPA asked the court for a six-month extension to take final action.

In a final order issued Aug. 12, 2016, the court ruled against the request by EPA and ordered the agency to take action by March 31, 2017.

Most recently, the EPA revised its human health risk assessment for chlorpyrifos in November 2016 to state that residues on food crops and in water are at unsafe levels.

There was concern that doing away with chlorpyrifos could at some point complicate the battle against insects, especially when growers are being encouraged to rotate chemistries to guard against insect resistance.

Corn accounts for chlorpyrifos' largest agriculture market as far as total pounds used because, overall, there are more corn acres than soybean acres, according to EPA. However, in recent years, use of chlorpyrifos has expanded in soybeans and has been on the decline in corn.

According to Dow AgroSciences' website, chlorpyrifos use in soybeans expanded from about 200,000 acres in 2004 to about 8 million acres in 2008. Dow estimated chlorpyrifos was applied to about 11% of soybean acres planted in 2008.

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-epa-returning-to-using-sound-science-on-pesticide-ban-reversal/article/2618829>

Pruitt: EPA 'returning to using sound science' on pesticide ban reversal

By John Siciliano 3/29/17 8:05 PM

Environmental Protection Agency chief Scott Pruitt slammed the brakes on an environmentalists'

push to ban a commonly used pesticide, saying the decision marks the return of sound science to the agency.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," Pruitt said on Wednesday in announcing that he is terminating the proceedings to ban the pesticide chlorpyrifos.

He said the decision maintains "regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment."

The large environmental activist group Natural Resources Defense Council had petitioned that the chemical be banned from use in the United States. The Obama EPA took up the petition in October 2015 and was in the middle of finalizing a ban on the substance when the Trump administration took the reins of government in January.

Pruitt pointed out that the public record showed "serious scientific concerns and substantive process gaps in the proposal," making the previous administration proposed action unreliable.

EPA said in a release that the U.S. Agriculture Department disagreed with the scientific methodology the Obama administration used in making its determination.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," it said. "The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel also expressed concerns with regard to EPA's previous reliance on certain data the Agency had used to support its proposal to ban the pesticide."

The Agriculture Department welcomed EPA's decision, saying it will prevent major disruptions for farmers trying to find a replacement for the pesticide.

"It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables. We thank our colleagues at EPA for their hard work," said Sheryl Kunicki, the agency's director of pesticide control.

AP

http://hosted.ap.org/dynamic/stories/U/US_ENVIRONMENTALISTS_CLIMATE_PLAN?SITE=AP&SECTION=HOME

Environmental groups file lawsuit over Trump climate actions

By Tammy Webber and Matthew Brown 3/29/17 6:20 PM

CHICAGO (AP) -- Environmental groups that vowed to fight President Donald Trump's efforts to roll back his predecessor's plans to curb global warming made good on their promise

Wednesday, teaming up with an American Indian tribe to ask a federal court to block an order that lifts restrictions on coal sales from federal lands.

The Interior Department last year placed a moratorium on new coal leases on federal lands to review the climate change impacts of burning the fuel and whether taxpayers were getting a fair return. But Trump on Tuesday signed a sweeping executive order that included lifting the moratorium, and also initiated a review of former President Barack Obama's signature plan to restrict greenhouse gas emissions from coal-fired power plants.

Environmentalists say lifting the moratorium will worsen climate change and allow coal to be sold for unfairly low prices.

"It's really just a hail Mary to a dying industry," said Jenny Harbine, an Earthjustice attorney who filed the lawsuit in U.S. District Court in Montana on behalf of the Northern Cheyenne Tribe, Sierra Club, and Center for Biological Diversity.

The White House did not immediately respond to an email seeking comment on the lawsuit. The Department of Justice declined comment.

Environmental groups have been preparing for months to fight the Trump administration's environmental rollbacks, including by hiring more lawyers and raising money. Trump, who has called global warming a "hoax" invented by the Chinese, said during his campaign that he would kill Obama's climate plans and bring back coal jobs.

Advocates said they also will work to mobilize public opposition to the executive order, saying they expect a backlash from Americans who worry about climate change.

"This is not what most people elected Trump to do," said David Goldston, director of government affairs at the Natural Resources Defense Council. "Poll after poll shows that the public supports climate action."

A poll released in September found 71 percent of Americans want the U.S. government to do something about global warming, including 6 percent who think the government should act even though they are not sure that climate change is happening. That poll, which also found most Americans are willing to pay a little more each month to fight global warming, was conducted by The Associated Press-NORC Center for Public Affairs Research and the Energy Policy Institute at the University of Chicago.

While Republicans have blamed Obama-era environmental regulations for the loss of coal jobs, federal data show that U.S. mines have been losing jobs for decades because of automation and competition from natural gas; solar panels and wind turbines now can produce emissions-free electricity cheaper than burning coal.

But many people in coal country are counting on the jobs that Trump has promised, and industry advocates praised his orders.

"These executive actions are a welcome departure from the previous administration's strategy of making energy more expensive through costly, job-killing regulations that choked our economy," said U.S. Chamber of Commerce President Thomas J. Donohue.

Trump's order also will initiate a review of efforts to reduce methane emissions in oil and natural gas production, and will rescind Obama-era actions that addressed climate change and national security and efforts to prepare the country for the impacts of climate change. The administration still is deciding whether to withdraw from the Paris Agreement on climate change.

And on Wednesday, the administration asked a federal appeals court to postpone a ruling on lawsuits over the Clean Power Plan, the Obama initiative to limit carbon from power plants, saying it could be changed or rescinded.

A coalition of 16 states and the District of Columbia said they will oppose any effort to withdraw the plan or seek dismissal of a pending legal case, while environmental advocates said they're also ready to step in to defend environmental laws if the U.S. government does not.

"The president doesn't get to simply rewrite safeguards; they have to ... prove the changes are in line with the law and science," said the NRDC's Goldston. "I think that's going to be a high hurdle for them."

Environmentalists say Trump's actions will put the U.S. at a competitive disadvantage to other countries that are embracing clean energy, which they say could create thousands of new jobs.

Even so, they believe efforts to revive coal ultimately will fail because many states and industries already have been switching to renewable energy or natural gas.

"Those decisions are being made at the state level and plant by plant," said Earthjustice President Trip Van Noppen, who said his group is "continuing to work aggressively to retire dirty coal plants."

"Coal is not coming back," Van Noppen added. "While the president is taking big splashy action, he is actually doomed to fail."

AP

http://hosted.ap.org/dynamic/stories/U/US_CONGRESS_EPA?SITE=AP&SECTION=HOME&TEMPLATE=D

House approves bill to force public release of EPA science

3/29/17 5:56 PM

WASHINGTON (AP) -- House Republicans are taking aim at the Environmental Protection Agency, targeting the way officials use science to develop new regulations.

A bill approved Wednesday by the GOP-controlled House would require that data used to support new regulations to protect human health and the environment be released to the public.

Rep. Lamar Smith, R-Texas, said "the days of 'trust me' science are over," adding that the House bill would restore confidence in the EPA's decision-making process.

Connecticut Rep. Elizabeth Esty and other Democrats said the bill would cripple EPA's ability to conduct scientific research based on confidential medical information and risks privacy violations by exposing sensitive patient data.

The bill was approved 228-194 and now goes to the Senate.

Reuters

<http://www.reuters.com/article/us-usa-pesticide-epa-idUSKBN17039F>

U.S. EPA denies petition to ban pesticide chlorpyrifos

3/29/17 7:55 PM

The U.S. Environmental Protection Agency said on Wednesday it had denied a petition by environmental groups that sought to ban the agricultural pesticide chlorpyrifos.

In October 2015, the Obama administration proposed to revoke all food residue tolerances for chlorpyrifos, an active ingredient in insecticides. The proposal was issued in response to a petition from the Natural Resources Defense Council and Pesticide Action Network North America, the EPA said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," EPA Administrator Scott Pruitt said in the statement.

Reuters

<http://www.reuters.com/article/us-volkswagen-emissions-idUSKBN17102C>

Volkswagen says U.S. approves sale of modified diesel vehicles

By David Shepherdson 3/30/17 9:59 PM

Volkswagen AG (VOWG_p.DE) said the U.S. Environmental Protection Agency has approved

its request to sell up to 67,000 diesel vehicles from the 2015 model year, including about 12,000 currently in dealer inventory with approved emissions modifications.

The vehicles in inventory were held when the company issued a stop sale in September 2015, Volkswagen spokeswoman Jeannine Ginivan told Reuters.

Ginivan said the company was finalizing details of the program.

The EPA approved a fix for about 70,000 Volkswagen diesel vehicles in January.

An EPA spokeswoman declined to comment on the matter.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-29/trump-s-coal-revival-will-make-it-harder-to-breathe>

Trump's Coal Revival Will Make It Harder to Breathe

By David Shipley 3/29/17 5:06 PM

President Donald Trump's effort to prop up the coal industry will not, over the long run, succeed -- the energy market will make sure of that. But it could impede America's progress toward stabilizing the climate, and it will certainly harm public health.

Burning coal, after all, releases a lot more bad stuff into the air than just carbon dioxide. There's also mercury, which makes its way into rivers and streams, where it's eaten by fish and, in turn, by people -- poisoning brains and nervous systems, especially those of developing fetuses.

And then there's sulfur dioxide, nitrogen oxide, any number of other volatile compounds, and particles of metal and chemicals. Aloft, this mess combines with sunlight to form smog. More than 7,500 Americans die from breathing it every year.

The Clean Power Plan -- an initiative of former President Barack Obama, and the principal target of Trump's efforts -- would have prevented as many as 3,600 premature deaths a year by 2030, according to the Environmental Protection Agency. That plan is now tied up in litigation, but Trump proposes to do away with it altogether.

It's not clear that he can, because it will require making a reasonable argument for why the EPA should suddenly stop regulating greenhouse gases. But it's a bad idea even to try.

Coal power is already dying of other causes, including the Sierra Club's Beyond Coal campaign effort (funded by Michael R. Bloomberg) to close coal-fired energy plants, and coal's failure lately to stay competitive with natural gas and even wind and solar power.

With his executive order doing away with most of the Obama administration's efforts to discourage coal use, Trump may be able to slow coal's slide. But he can't return it to its former status as America's main power source. And, because of increasing automation, he won't save coal-mining jobs. Even judged by the claims Trump makes for it, this policy is poised to accomplish nothing at all.

The Hill

<http://thehill.com/policy/energy-environment/326380-house-votes-to-restrict-epas-use-of-science>

House votes to restrict EPA's use of science

By Timothy Cama 3/29/17 4:57 PM

The House voted Wednesday to restrict the kind of scientific studies and data that the Environmental Protection Agency (EPA) can use to justify new regulations.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, passed 228-194. It would prohibit the EPA from writing any regulation that uses science that is not publicly available.

It's the latest push by House Republicans to clamp down on what they say has turned into an out-of-control administrative state that enforces expensive, unworkable regulations that are not scientifically sound.

Even with President Trump in the White House, the GOP feels it's important to make lasting changes to how regulations are written and justified.

The House earlier this year passed a pair of bills to rein in regulations across government — the Regulations from the Executive in Need of Scrutiny (REINS) Act and the Regulatory Accountability Act.

But Democrats, environmentalists and health advocates say the HONEST Act is intended to handcuff the EPA. They say it would irresponsibly leave the EPA unable to write important regulatory protections, since the agency might not have the ability to release some parts of the scientific data underpinning them.

The HONEST Act is similar to the Secret Science Act, which leaders in the House Science Committee sponsored in previous congresses and got passed.

"This legislation ensures that sound science is the basis for EPA decisions and regulatory actions," Rep. Lamar Smith (R-Texas), chairman of the Science Committee, said on the House floor Wednesday.

“The days of ‘trust-me’ science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review,” he said. “That’s called the scientific method.”

Smith framed his bill as an extension of the highly-regarded quest to use the best science to inform regulators.

He said the EPA — particularly under former President Obama — often hid the data it used in regulations, preventing the public and peer scrutiny that helps ensure the science is the best available.

“We all care about the environment,” he said. “But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain.”

The bill would also require that any scientific studies be replicable, and allow anyone who signs a confidentiality agreement to view redacted personal or trade information in data.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee’s top Democrat, slammed her GOP colleagues for what she called a “misguided” effort to stop sensible EPA regulations.

She denied that the EPA is overly secretive with its science, saying it often doesn’t own the information and has no right to release it.

“The secret science bills the Republicans tried to enact over the previous two congresses were insidious bills, designed from the outset to prevent EPA from using the best available science to meet its obligations under the law. Those bills were constructed to hamstring the ability of EPA to do about anything to protect the American public,” she said.

The latest iteration adds the redactions and the ability to view redacted information, which Johnson called “a Pandora’s Box, which could have untold consequences for the EPA, industry and the general public,” including restricting the EPA’s ability to gather information.

“In reality, this bill isn’t about science. It’s about undermining public health and the environment,” she said.

Republicans on the Science Committee passed the bill earlier this month, alongside another bill to reform the EPA’s Science Advisory Committee. The advisory panel would be required to have geographic diversity and representatives from certain stakeholder groups.

The full House is likely to consider that bill soon.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/epa-denies-chlorpyrifos-petition->

085664

EPA denies chlorpyrifos petition, scrapping Obama era finding of health risks

By Jenny Hopkinson 3/29/17, 7:51PM

The EPA has denied a petition from environmentalists calling for a ban on the pesticide chlorpyrifos, bucking the Obama administration's findings that the chemical poses health risks.

In a notice posted to its website Wednesday evening, the agency says it will address the questions raised in the petition during a broader review of the pesticide that it expects to finish in 2022. That review will consider the concerns about potential neurodevelopmental toxicity in children that were raised in the 2007 petition from the Pesticide Action Network North America and the Natural Resources Defense Council.

The decision is a reversal from a November 2016 proposal from the EPA under then-President Barack Obama that called for revoking the pesticide's permitted tolerances — the amount of residue that can be found on crops and produce — which would have effectively banned chlorpyrifos in agricultural uses. The agency was under a court-ordered deadline to respond to the petition by Friday.

"Despite several years of study, the science addressing neurodevelopmental effects remains unresolved," EPA wrote in the notice. It said that "further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos."

The decision added that "EPA has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues."

InsideEPA

<https://insideepa.com/daily-news/epa-weighs-tapping-superfund-site-accounts-offset-fy18->

EPA Weighs Tapping Superfund ‘Site’ Accounts To Offset FY18 Budget Cuts

By Suzanne Yohannan 3/29/17

EPA officials are considering offsetting massive proposed cuts to the Superfund cleanup program in fiscal year 2018 by borrowing from “special accounts” -- site-specific accounts funded from settlements with responsible parties -- to offset any cuts and apply the money more broadly to pay for cleanup needs in the coming year.

EPA’s acting waste chief Barry Breen told a Senate panel hearing March 29 on cleaning up Cold War legacy sites that the agency is “looking for ways we can go deeper into using accounts that the Treasury Department has allowed us to set up.”

“These are interest-bearing savings accounts with the U.S. Treasury where we have put money that defendants have given us we’ve deposited there and we can draw on,” he said in response to a question from Sen. Mike Rounds (R-SD).

Breen said the agency is eyeing the approach because Congress has labeled Superfund “no-year money,” noting that the agency does not have to spend all that it is given in a particular year. “So we can look to prior years’ funding in order to fund needs in future years,” he said.

He added that EPA will also “be looking for efficiencies administratively, efficiencies in the way we move funding among accounts, and more, in order to get as much progress for the public as we can.”

While it is not clear how the agency plans to repay any funds it taps, advancing the approach may be crucial for Administrator Scott Pruitt, who has pledged to speed cleanups and delist sites from the National Priorities List. But he may be stymied by White House plans to slash \$330 million, or 30 percent, from Superfund cleanup spending in FY18.

The administration has also proposed to cut \$30 million from the \$500 million the program was slated to receive in FY17, saying the additional cuts “will ease the program into further reductions in FY 2018.”

Given such cuts, the special accounts could prove to be a significant source of funds. A 2009 report from EPA's Office of Inspector General (OIG) said at that time there was a surplus of \$1.1 billion spread over 819 special accounts.

Sources now say the surpluses may be even larger. For instance one account alone, stemming from the Obama administration's settlement with Anadarko Petroleum Corp., includes more than \$1 billion intended to address abandoned uranium mining sites on tribal land.

Special Accounts

But the plan to tap funds from the special accounts is drawing mixed reviews from attorneys and some private parties.

One attorney questions whether taking money dedicated to a particular site through a special account and using it for other sites would be a breach of contract, or in effect violate specific settlement terms. Special accounts “have been able to insulate these sites from the vagaries of the budgetary process,” the attorney says.

The attorney says the goal is to raid special accounts and move that money over to the Superfund trust fund, which would allow for the administration to request lower budgets from congressional appropriators. “It takes away money dedicated for sites that would not be available for the [Superfund] trust fund,” the source says.

An industry source downplayed such concerns but nevertheless acknowledged potential “risk” that the money would not be easily repaid if the budget were not to stabilize in future years.

“It’s an accounting matter, not a welching on the deal matter,” the source says. The money could be used now, with the understanding that it will not void future obligations by EPA to repay accounts from which it has borrowed money. This source says that obviously this could not be done every year because of the risks of being unable to pay back the accounts.

The industry source concedes EPA's approach assumes that the budget will become more stable over time so the funds can be repaid, but that there is a risk with taking this position because EPA's budget may not be restored. The source says EPA is probably “making a reasonable risk calculation.”

Cleanup Appropriations

Superfund special accounts are separate from the appropriations EPA receives for the cleanup program. Funds appropriated by Congress are dedicated to fund-lead site cleanups, removal actions, pre-remedial work and personnel, the attorney says.

Superfund special accounts, by contrast, are often set up in response to court-sanctioned settlement agreements, where settlement monies from potentially responsible parties (PRPs) are placed into a special account, to be drawn from for cleanup at the specific site for which the PRPs were liable, according to sources familiar with the mechanism.

Section 122(b)(3) under the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) authorizes EPA to retain and use settlement funds to address cleanups specified in the settlement agreement, EPA’s OIG says in the 2009 report on the topic.

It notes that the agency places these funds in interest-bearing, site-specific accounts known as “special accounts.”

For instance, these can include situations where smaller contributors at a site cash out and settle with EPA for their share of cleanup costs, according to an industry source. The money is then put into a special account.

The major PRPs at the site then perform 100 percent of the cleanup, and are supposed to be reimbursed from the account for the portion of cleanup for which they were not responsible, although EPA has often been slow to reimburse due to claims of further cleanup requirements at the specific site, the industry source says.

But the accounts and EPA's handling of them has come in for criticism. For example, the OIG has pressed EPA to “reclassify” at least some special account funds -- specifically those the agency held as “reserves” -- to support other priority sites, particularly sites for which human exposure is not under control.

In the 2009 report, the OIG sought improvements to the agency’s handling of special accounts, saying its uncoordinated approach “led to missed opportunities to fund needed Superfund cleanups” and previously had recommended that \$59 million of “idle special account funds be reclassified or transferred” to the Superfund trust fund.

'External Audit'

The accounts have also drawn criticisms from top former Trump transition team officials, who are urging the administration to tap the funds.

“EPA should review the Superfund special accounts and probably then commission an external audit,” Myron Ebell, who led the Trump transition team at EPA, told *Inside EPA*. Ebell, who has now returned to the free-market Competitive Enterprise Institute, said he does not know Pruitt’s views on the matter or what EPA is planning.

Ebell had previously told the *Daily Caller*, a conservative news organization, in 2016 that the special accounts are “the very definition of an out-of-control agency, if they can raise their own money and not have to go to Congress to have it appropriated.”

The news outlet had labeled the accounts “akin to slush funds,” which may have been the impetus for the Trump beachhead team to collect information on the accounts from EPA staff during the transition, informed sources say.

Despite such criticism, the attorney says the site-specific accounts have provided benefits. In

addition to funding cleanups, the special accounts have been used to pay for EPA employees. These employees would likely have to be let go, while cleanup at the special account sites “could slow depending on how much money is made available to the site from the trust [fund] and who is doing the cleanup” -- whether EPA or PRPs.

This source believes that sites where PRPs are responsible for conducting cleanups may not be affected because money from settlements with smaller PRP contributors is being used to reduce the liability of PRPs performing the full cleanup. But this source foresees problems at sites where EPA is performing the work, paid for by PRPs into a settlement special account. If the money is transferred, then EPA will not be able to pay the cleanup contractors, the source says. -- *Suzanne Yohannan* (syohannan@iwpnews.com)

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Huffington Post

http://www.huffingtonpost.com/entry/epa-air-quality-studies_us_58dc3a27e4b08194e3b71ab3

Top Scientists Defense EPA Air Pollution Studies As Politicians Attack Science

By Alexander C Kaufman 3/29/17, 7:39PM

Over a year ago, the Environmental Protection Agency asked the country's top scientific body to pore over six years of studies into how air pollution affects human health. It was a move meant to quell critics who questioned the safety of conducting such research.

The National Academies of Sciences, Engineering, and Medicine finally released its findings on Tuesday, offering a resounding endorsement of the EPA's protocol for conducting tests on human subjects, along with a few suggestions on how to make the tests safer.

The 159-page report makes for humdrum reading, but its timing injects the analysis with a sense of urgency. Lawmakers emboldened by the Trump administration's assault on environmental regulations have moved to change the way science is used to draft policy to open the door to more industry-friendly or ideologically driven research.

Last month, the House Committee on Science, Space and Technology invited a coal lawyer, a chemical industry lobbyist and a libertarian scholar who has accused the EPA of “regulatory terrorism” to testify alongside a lone advocate for science as witnesses before a congressional hearing titled “Making EPA Great Again.” On Tuesday, the committee's chairman, Rep. Lamar Smith (R-Texas), convened another hearing, “Climate Science: Assumptions, Policy Implications, and the Scientific Method,” will “examine the scientific method and process as it relates to climate change” and “focus on the underlying science that helps inform policy decisions,” according to a hearing charter. To do that, Smith fleshed out his four-person panel with a trio of prominent, like-minded climate change skeptics and attacked the credibility of Science magazine.

The report released Tuesday assesses the treatment of more than 800 participants across 21 studies the EPA conducted from 2009 to 2016, and how that research influenced policies to protect the public from toxic air pollution. But the takeaway can be applied to the agency's overall use of science in rule-making, according to Robert Hiatt, chair of the epidemiology and biostatistics department at the University of California, San Francisco.

"The studies the EPA conducts are valuable," Hiatt, the report's lead author, told The Huffington Post by phone Monday. "They contribute knowledge to making important decisions for the public."

He said the timing of the report, commissioned roughly 18 months ago by the Obama administration's EPA, was a fluke.

"It is totally bizarre and coincidental that, at the same time, this issue has come to the floor on the national political scene," Hiatt said. "The fact that they're colliding this week is totally by chance. But the relevant information is still important."

Hiatt and his team of 14 other researchers dug deep into eight experiments in particular, called controlled human inhalation exposure, or CHIE, studies that typically subject participants to hours of a pollutant to see how it affects lung function. The results of those studies are used to set EPA standards for air quality under the Clean Air Act.

The agency's scientific methods, however, weren't without flaw. In one study, Hiatt found that a 58-year-old woman suffered an irregular heartbeat during a test. Doctors immediately hospitalized her, and she was discharged two hours later when she was determined to be fine. It's not clear whether her heart rate hastened by exposure during the test or by chance due to chronic disease. Hiatt recommended EPA researchers increase the amount of information given to participants before tests. But the incident marked the only one of 845 cases that went awry, and Hiatt said researchers handled it appropriately.

"The safety of the individual was never in question," Hiatt said. "It now becomes a political decision by the country's deciders about what to do with this information."

Washington Examiner

<http://www.washingtonexaminer.com/trump-asks-federal-judges-to-delay-ruling-on-obama-era-climate-plan/article/2618799>

Trump asks federal judges to delay ruling on Obama-era climate plan

By John Siciliano 3/29/17 3:44 PM

The Justice Department is prodding federal appeals court judges to delay their ruling on the Obama-era Clean Power Plan until the Environmental Protection Agency has time to tweak the plan itself using President Trump's latest executive order as a guide.

A delay would help the Trump administration ensure that the judges don't rule favorably on any

aspect of the rule that they are likely to gut in the coming months.

"EPA should be afforded the opportunity to fully review the Clean Power Plan and respond to the president's direction in a manner that is consistent with the terms of the executive order, the Clean Air Act, and the agency's inherent authority to reconsider past decisions," federal attorneys argued in a brief sent to the court Wednesday.

Deferral of further judicial proceedings is thus warranted," the brief said.

Trump's energy independence order signed on Tuesday directed EPA chief Scott Pruitt to begin a review of the Obama administration's climate plan toward the eventual goal of rescinding it. Meanwhile, a 10-judge panel of the D.C. Circuit Court of Appeals is reviewing a lawsuit by 28 states and hundreds of industry groups opposing the regulation.

The court is expected to issue a decision in the coming months, and it is unclear if it will grant the Justice Department's request.

The brief explained to the court that the EPA is closely evaluating the Clean Power Plan, in which "the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions."

The prior positions of the EPA represented in the court were that of the Obama administration, which was defending the regulation from states' claims that the EPA overstepped the limits of its authority in drafting the regulation, and that the climate plan was unconstitutional.

Pruitt, who was formerly the attorney general of Oklahoma, was a lead voice in opposing the Clean Power Plan in the litigation before the D.C. Circuit court ahead of becoming the administrator of the EPA.

The Clean Power Plan was halted by the Supreme Court over a year ago, which states suing the agency took as vindication that the high court agreed with its claims, though the court did not lay out the reasons for staying the plan.

The plan requires that states reduce their greenhouse gas emissions a third by 2030 to help curb the effects of global warming.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Thur 3/30/2017 8:43:17 PM
Subject: RE: OPA Clips 3/30/17

Below: Reuters, The Hill, Bloomberg, The Hill, E&E News (3), InsideEPA (2), Mashable, E&E News (3), Politico (2), InsideEPA, Washington Examiner, The Blaze (3/29), Politico (2), New York Magazine, The Daily Caller, The Hill, CNN, Mother Jones, Mother Jones (3/29), NPR (3/29), Bloomberg BNA, Politico, The Hill, LA Times, Bloomberg BNA (3), Bloomberg, E&E News (4), Washington Post (2), Huffington Post, Daily Caller, New York Times (3/29), Washington Post (3/29), InsideEPA (3/29), Agri Pulse (3/29), DTN (3/29), Washington Examiner (3/29), AP (2) (3/29), Reuters (2) (3/29), Bloomberg (3/29), The Hill (3/29), Politico (3/29), InsideEPA (3/29), Huffington Post (3/29), Washington Examiner (3/29)

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Reuters

<http://www.reuters.com/article/us-usa-court-gorsuch-climate-idUSKBN1712X6>

High court pick could help decide fate of Trump's climate policy

By Lawrence Hurley 3/30/17, 3:17PM

WASHINGTON Donald Trump's Supreme Court nominee could help decide the fate of his moves to undo climate-related U.S. regulations, but legal experts said Neil Gorsuch's judicial record makes it hard to predict whether as a justice he would back a sweeping rollback.

If confirmed to the lifetime job by the Senate, the Colorado-based federal appeals court judge would restore the court's 5-4 conservative majority. The Senate is planning an April 7 confirmation vote although many Democrats are fighting to block Gorsuch.

On the court, Gorsuch could become a pivotal vote on the Republican president's deregulation agenda, along with fellow conservative Anthony Kennedy, who sometimes joins the court's four liberals in close cases.

That agenda includes Trump's effort to kill Democratic former President Barack Obama's so-called Clean Power Plan, blocked by the high court last year, aimed at reducing climate-warming carbon emissions from mainly coal-fired power plants. Trump on Tuesday signed an executive order kicking off a lengthy review process that environmental groups and Democratic-governed U.S. states have promised to challenge in court.

Gorsuch's views on issues related to climate change are unclear. His mother headed the U.S. Environmental Protection Agency under Republican former President Ronald Reagan for two years in the 1980s.

Gorsuch was not asked about climate issues during his Senate Judiciary Committee confirmation hearing last week. In his 11 years as a judge, the only major ruling touching upon climate policy came in 2015 when he was on a three-judge panel that upheld a Colorado measure requiring power generators to ensure a fifth of their electricity came from renewable sources.

A 2016 case on federal agency power is potentially more instructive on how he might approach broad moves to slash current regulation, according to experts.

In that case, Gorsuch questioned a 1984 Supreme Court precedent giving federal agencies broad deference to interpret laws. Gorsuch called the doctrine, enshrined in the *Chevron v. Natural Resource Defense Council* ruling, an "elephant in the room" that concentrates federal power "in a way that seems more than a little difficult to square with the Constitution."

Questions remain over how that approach would manifest itself if applied to efforts by Trump's EPA to weaken or rescind existing agency regulations on fighting climate change. Some environmental lawyers say it could mean Gorsuch would be skeptical of any big changes at the agency level. The EPA under Obama compiled detailed scientific data to support its efforts to curb carbon emissions.

"That could hamper the Trump administration," said Jonathan Adler, a conservative law professor at Case Western Reserve University School of Law in Cleveland.

Sean Donahue, a lawyer who represents environmental groups, agreed, saying if the EPA were to "advance fancy interpretive footwork to try to make greenhouse gases not a Clean Air Act pollutant," the administration may not get the deference it wants.

The extent to which the U.S. Clean Air Act, the law that tackles air pollution, applies to carbon emissions is heavily contested in the courts. The Supreme Court, in the landmark 2007 decision *Massachusetts v. EPA*, held that carbon is a pollutant that could be subject to regulation under the law.

In a 2014 case, the court largely upheld the Obama administration's first batch of greenhouse gas regulations.

Environmental groups including the Sierra Club have said they are ready to pounce if they see signs that Trump's EPA, headed by fossil fuels industry ally Scott Pruitt, is ignoring science in making climate-related regulatory changes.

"I think the bottom line is that we hope any anti-regulatory rule-making should be so unscientific

... almost any federal judge should see through the Trump administration maneuvering," said Pat Gallagher, a Sierra Club lawyer.

The Hill

- <http://thehill.com/policy/energy-environment/326561-trump-to-decide-whether-to-stay-paris-climate-pact-by-late-may>

Trump to decide by late May whether to stay in Paris climate pact

By Timothy Cama, 3/30/17, 2:22PM

President Trump is planning to decide by late May on whether the U.S. should stay in the Paris climate change agreement, the White House announced Thursday.

White House press secretary Sean Spicer told reporters at his daily briefing that White House aides "are currently reviewing issues related to the agreement."

The administration expects to announce a final decision by May 26 — the beginning of a conference in Italy for the Group of Seven (G7) industrialized countries — or even sooner, Spicer said.

The president promised last year on the campaign trail to "cancel" the 2015 agreement, which former President Barack Obama helped formulate. The pact consists of non-binding greenhouse gas emissions cuts agreed to by nearly 200 nations.

Trump has been under pressure from conservatives, top White House adviser Stephen Bannon and others to fulfill his campaign promise and formally exit the agreement.

But others close to the president want to maintain the United States' position in the pact, even if Trump doesn't want to abide by the 26 percent to 28 percent emissions cut that Obama promised.

Secretary of State Rex Tillerson said it's valuable from a diplomatic perspective to stay in the accord, and Trump's daughter Ivanka Trump and her husband Jared Kushner — both close advisers — agree.

Trump's wide-ranging executive order signed Tuesday started the process to roll back nearly all of Obama's climate agenda, but did not mention the Paris agreement. Still, the order makes it unlikely that the nation could live up to Obama's commitment.

The pact sets out a four-year process for exiting the agreement. But some conservatives have suggested pulling the U.S. out of the United Nations' Framework Convention on Climate

Change, a much larger agency, which would also have the effect of pulling out of Paris.

Bloomberg

<https://www.bloomberg.com/politics/articles/2017-03-30/epa-email-error-miscasts-coal-country-senator-as-trump-critic>

EPA Email Error Miscasts Coal Country Senator as Trump Critic

By Jennifer Dlouhy 3/30/17, 12:06PM

When the Environmental Protection Agency sent out a roundup of quotes praising President Donald Trump's move to dismantle Obama-era climate policies, the first comment stuck out.

"President Trump has chosen to recklessly bury his head in the sand" by reversing regulations tackling "the greatest environmental challenge of our lifetime," Shelley Moore Capito, a Republican senator from West Virginia coal country, was quoted in the news release as saying.

The only problem? Capito never said any such thing.

Instead, the quote actually came from a Democratic senator from Delaware, Tom Carper, who hasn't been shy about criticizing Trump for trying to dismantle his predecessor's efforts to address climate change. Trump has called climate change a "hoax" and signed an order Tuesday to begin rescinding a series of EPA rules that would curb carbon-dioxide emissions.

EPA spokesman John Konkus swiftly said the whole thing was an "unfortunate" error -- a case of an internal draft "mistakenly sent with a quote that belonged to Senator Carper but was wrongly attributed to Senator Capito, whom we originally meant to quote." About an hour and a half after the first release went out, the EPA sent out a new corrected version noting that an earlier draft "misattributed a quote from another senator to Senator Capito."

Staff Resistance

Still, the incident was the latest miscue as the Trump administration tries to reorient the nation's environmental policies, sometimes over the objections of career staff. The account for the Badlands National Park Service tweeted out messages highlighting the growing concentration of carbon dioxide in the atmosphere soon after Trump's inauguration. The missives were later deleted and attributed to a former employee who still had the account's credentials.

There have been other examples. The National Oceanic and Atmospheric Administration published a "Wisdom Wednesday" post on its Facebook page with facts about climate change within a week of Trump's swearing-in. It was deleted the same day. And the Twitter account for the Golden Gate National Recreation Area published a visualization of global temperature change that vividly highlights the recent escalation.

Career civil servants and outsiders also have started up new social media accounts under names such as "Rogue NASA" and "altEPA" to provide a running commentary against administration actions.

Career civil servants and outsiders also have started up new social media accounts under names such as "Rogue NASA" and "altEPA" to provide a running commentary against administration actions.

Some Trump supporters have complained that "a deep state" of Obama holdovers is embedded throughout the federal bureaucracy trying to undercut the president.

"There are people that burrow into the government after an administration," White House spokesman Sean Spicer said when asked about the phenomenon on March 21. It's "no huge secret" that of course, "there's people after eight years of Obama that found their way into government," Spicer added, without addressing their motivations.

Environmental activists who oppose the new administration's policies, said acts of bureaucratic resistance -- big and small -- are an important check on Trump and EPA Administrator Scott Pruitt.

"It's vitally important for EPA staff and administrators to continue to work to protect communities and the planet from poison and destruction. We hope they are able to use all the tools available to them to resist Scott Pruitt and Donald Trump's attempts to erase the work and legacy of their office," said Travis Nichols, a spokesman for Greenpeace. "In many cases, the EPA is the only thing standing between a community and destruction."

The initial message misspelled Capito's first name, and it would be highly unusual to see Democrat Carper quoted alongside the likes of the American Petroleum Institute, the American Coalition for Clean Coal Electricity and the conservative Energy and Environment Legal Institute.

Capito's real quote, for the record, commended Trump for rolling back "one of the most harmful acts of overreach by the Obama administration."

"Stopping this disastrous plan will preserve America's coal industry, expand our manufacturing renaissance that is reliant upon affordable energy, and protect American families from unprecedented hikes in their electric bills," she said.

The Hill

<http://thehill.com/policy/energy-environment/326538-epa-mistakenly-criticizes-trumps-executive-order>

EPA mistakenly criticizes Trump executive order

By Timothy Cama 3/30/17, 12:51PM

The Environmental Protection Agency (EPA) mistakenly sent a news release Thursday that criticized President Trump's executive order to roll back climate change policies.

The error came when the EPA tried to quote Sen. Shelley Moore Capito (R-W.Va.) in a release highlighting praise of Trump's Tuesday order the start undoing former President Obama's climate actions.

"With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," the release quoted Capito as saying, the first quote in a list of over a dozen statements from Republicans, fossil fuel interests and others praising Trump.

"Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime," it continued.

That statement actually came from. Sen. Tom Carper (Del.), the top Democrat on the Environment and Public Works Committee and a harsh critic of Trump's environmental agenda.

"Sen. Carper is happy to lend his words to a good cause," a Carper spokeswoman said.

Capito, by contrast, cheered Trump's order.

"Stopping this disastrous plan will preserve America's coal industry, expand our manufacturing renaissance that is reliant upon affordable energy, and protect American families from unprecedented hikes in their electric bills," Capito said. Capito attended the signing ceremony Tuesday, and Trump thanked her in his speech.

The EPA sent out a corrected version of the release later Thursday morning, with Capito's actual quote.

EPA spokesman John Konkus said the agency's press office accidentally sent a draft version of the release.

"We apologize for the error and are making sure that our process is improved as we build our team," he said.

The mix-up came amid a rift between a large portion of the EPA's career, non-political workforce and political leaders in the Trump administration, including EPA Administrator Scott Pruitt.

EPA employees have made their objections known, including through a campaign to lobby the Senate against Pruitt's confirmation.

An EPA scientist made his concerns public in a letter to the New York Times published Wednesday. "I am very saddened by what I see these days under an E.P.A. administrator whose role it is to dismantle the agency that he leads," wrote Michael Kravitz, who works in Cincinnati.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052357>

EPA about-faces on banning chemical it once called a risk

By Ariel Wittenberg 3/30/17

U.S. EPA will not outlaw a commonly used pesticide, contradicting evidence the agency put forward last year that the chemical poses a risk to human health.

The indoors use of chlorpyrifos, once commonly used in residential buildings and in home lawns and gardens, was banned in 2000. But agricultural uses for the pesticide, also known as Lorsban, remained, with roughly 55 percent of apples and 45 percent of broccoli and walnuts grown in the United States treated with the chemical.

The Obama EPA proposed banning its use on food in 2015 in response to a petition filed by the Natural Resources Defense Council and Pesticide Action Network North America.

In preparing to ban chlorpyrifos, EPA published numerous health assessments on the chemical. The most recent one, from November 2016, found that current uses of the chemical pose dietary and drinking water risks to humans, especially children.

The agency found that workers who mix, load and apply the pesticides are at risk from the chemical. It also found that currently approved uses of the pesticide could contaminate nearby drinking water, while chemical residues on produce exceed safety standards set by the Federal Food, Drug and Cosmetic Act.

EPA Administrator Scott Pruitt declined to finalize the ban yesterday, rejecting the environmental groups' petition.

Pruitt framed the decision as an economic one, noting that "thousands of American farms" rely on chlorpyrifos.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," he said in a statement.

EPA now argues that its proposal to ban use of the pesticide on crops "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

That point echoes one made by farm groups last year, which argued in a letter to then-EPA Administrator Gina McCarthy that the science is inconclusive on whether chlorpyrifos causes harm to humans (*E&E News PM*, April 13, 2016).

"EPA also is required to review the best available data. In the process involving chlorpyrifos, the Agency has fallen woefully short of statutory requirements and as stakeholders we expect a consistent and scientific approach based on the law," the groups wrote.

By contrast, groups like the NRDC have argued that exposure to relatively small amounts of the chemical early in life can lead to learning disabilities such as autism and attention deficit hyperactivity disorder.

NRDC senior scientist Miriam Rotkin-Ellman in a statement decried the administration's decision and defended the evidence that the pesticide harms human health.

"The Trump administration has decided to put the needs of chemical corporations before children's health," she said. "We will see Administrator Pruitt in court and require him to provide real evidence, not just 'alternative facts.'"

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052366>

Agency press release blasts Trump by mistake

By Kevin Bogardus 3/30/17

For nearly two hours, President Trump had a new critic: his own agency, U.S. EPA.

Shortly past 9 a.m. this morning, the agency sent out a press release touting praise for the executive order that Trump signed Tuesday, which rolls back several environmental rules, including the Clean Power Plan.

At the top of that release was a quote attributed to Sen. Shelley Moore Capito (R-W.Va.), one of EPA's fiercest critics. Yet instead of praising the president, Capito blasted Trump, according to the release.

"With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," Capito said.

Except she didn't. The quote came from Sen. Tom Carper of Delaware, ranking Democrat on the Senate Environment and Public Works Committee, who was responding to the president's order.

Around 10:45 a.m., EPA sent out a new press release with "CORRECTION" in its subject line.

Capito's reaction to Trump's order in the new release: "President Trump kept his promise to roll back one of the most harmful acts of overreach by the Obama administration — the so-called Clean Power Plan. If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact."

Capito was in the audience at EPA headquarters for Trump's signing of the order, which he said would help revive the coal industry (*E&E News PM*, March 28).

Asked for Capito's reaction to the mistaken agency press release, a spokeswoman for the senator emailed E&E News Capito's correct statement on the order. Carper's office shared a joke in response to the mishap.

"Senator Carper doesn't mind lending his words to a good cause," said a Carper spokeswoman.

An EPA spokesman said the agency goofed with its original press release and apologized for the mistake.

"An internal draft was mistakenly sent with a quote that belonged to Senator Carper but was wrongly attributed to Senator Capito, whom we originally meant to quote," said EPA spokesman John Konkus.

"We apologize for the error and are making sure that our process is improved as we build our team," he said.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052361>

‘I walk among my colleagues like a zombie in a bad dream’

By Kevin Bogardus 3/30/17

A U.S. EPA scientist said he has been "very saddened" by what he has seen so far at the agency under the Trump administration.

In a three-paragraph [letter](#) sent to the editor of *The New York Times* and published yesterday, Michael Kravitz said he is an environmental scientist at EPA, "where I have enjoyed my work helping to improve our environment."

"But I am very saddened by what I see these days under an E.P.A. administrator whose role it is to dismantle the agency that he leads," said Kravitz, referring to Scott Pruitt, who was confirmed as EPA chief last month. "I walk among my colleagues like a zombie in a bad dream; they also seem dazed."

In a phone interview with E&E News, Kravitz confirmed that he had written the letter.

"I expressed my opinion, and that's it," Kravitz told E&E News, declining to comment further.

Kravitz works in EPA's Cincinnati office. He is listed on the agency's website as the director of

EPA's Ecological Risk Assessment Support Center, which addresses questions on risks surrounding hazardous waste sites, and has helped author some scientific papers.

In his letter, Kravitz said the agency's weekly newsletter has articles about flower shows and photo contests rather than environmental protection.

"Our president comes to the E.P.A. to sign an executive order withdrawing the Clean Power Plan and other environmental policies, and the audience applauds," Kravitz wrote. "I hope the nightmare ends soon."

Amid great fanfare, President Trump visited the agency for the first time earlier this week to sign an executive order rolling back several environmental rules, promising to revive the coal industry (*E&E News PM*, March 28). That event did not go over well with career employees who have been angered by Trump's targeting the agency's work (*E&E Daily*, March 28).

EPA press officials didn't respond to messages from E&E News asking for comment for this story.

InsideEPA

<https://insideepa.com/daily-news/epa-reversal-pesticide-ban-signals-shift-away-using-human-data>

EPA Reversal Of Pesticide Ban Signals Shift Away From Using Human Data

By Dave Reynolds 3/30/17

EPA is reversing an Obama administration proposed ban on the commonly-used insecticide chlorpyrifos after finding significant uncertainty in the human exposure data used for the ban, pushing back on an appellate court's power to compel a quick review of the data and signaling a shift away from using it in other pesticide decisions.

In a March 29 order, EPA Administrator Scott Pruitt formally reverses the Obama EPA's October 2015 proposed ban of chlorpyrifos, and denies environmental groups' long-standing petition to no longer allow use of the substance on food to protect against potential neurodevelopmental risks to children.

The Obama EPA proposed the ban under pressure from the U.S. Court of Appeals for the 9th Circuit in long-running litigation aiming to force a deadline for a decision on a ban.

But Pruitt says use of epidemiological data in pesticide reviews is an area of significant scientific uncertainty. He also argues in the order that the court cannot compel the agency to act to expedite its Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) registration review of the substance ahead of a statutory deadline in 2022.

“While EPA acknowledges its obligation to respond to the Petition as required by the court, the court's order does not and cannot compel EPA to complete the registration review of chlorpyrifos in advance of the October 1, 2022 deadline” under FIFRA,” Pruitt says. “Although past EPA administrations had chosen to attempt to complete that review several years in advance of the statutory deadline (and respond to the Petition on the same time frame), it has turned out that it is not possible to fully address these issues early in the registration review period.”

The decision not only scraps the Obama EPA's proposed ban on chlorpyrifos but also suggests that the Trump EPA will shift away from consideration of human epidemiological data in other pesticide reviews.

That is a win for the pesticide industry which has opposed some uses of that data, and recently said it would seek a public statement that EPA will adhere to FIFRA in pesticide reviews, after the industry clashed with the Obama EPA over reviews of commonly-used but controversial pesticides such as chlorpyrifos.

For example, the pesticide industry group CropLife America lodged a petition with the agency in fall 2016 faulting what it called “significant inconsistency” in EPA's use of human data in pesticide reviews. Industry is expected to welcome the decision to reverse the chlorpyrifos ban, as well as the critical comments on epidemiological data.

But environmental groups who sued EPA seeking a response to their 2007 petition for EPA to ban chlorpyrifos contend Pruitt's reversal violates federal law, and pledge to continue pursuing the litigation.

“EPA’s refusal to ban this dangerous pesticide is unconscionable,” says Earthjustice's Patti Goldman, the attorney in the case. “EPA is defying its legal obligation to protect children from unsafe pesticides. We will be going back and asking the court to order EPA to take action now, rather than in 5 more years.”

Jim Jones, head of the Obama EPA's toxics office for five years, also faulted the decision, telling the New York Times in a March 29 article, “They are ignoring the science that is pretty solid” on chlorpyrifos' risks.

Chlorpyrifos Petition

The Natural Resources Defense Council and Pesticide Action Network North America petitioned EPA in 2007 to ban chlorpyrifos to prevent potential neurodevelopmental risks to children.

In 2014, they filed a deadline suit with the 9th Circuit, and a three-judge panel of the court agreed with their assertions that EPA's delay in answering the years-old petition has been "egregious."

Under pressure of a court-ordered deadline, EPA in October 2015 proposed revoking all tolerances for chlorpyrifos, essentially banning use of the substance on food, despite having not yet completed analysis needed to support that decision. The court later granted the Obama EPA one final extension, requiring the agency to issue a final response to the petition by March 31 this year.

EPA's chlorpyrifos review has been complicated by scientific uncertainty surrounding use of epidemiological studies in pesticide review, given that EPA pesticide reviews have traditionally been based on animal toxicology studies.

In the order, Pruitt says three Scientific Advisory Panels have offered conflicting recommendations on how or whether to consider epidemiological data in pesticide reviews, and have called for additional study.

“While industry and public interest groups on both sides of this issue can debate what the recommendations mean and which recommendations should be followed, one thing should be clear to all persons following this issue: the science on this question is not resolved and would

likely benefit from additional inquiry,” the order says.

EPA says interested parties may file objections to the agency's petition denial within 60 days of the order's upcoming publication in the *Federal Register*. But EPA says the decision is a final adjudication, not a rule, and so does not require public comment prior to taking effect.

Pruitt's decision that epidemiological data suggesting chlorpyrifos poses a neurodevelopmental risk requires further review could also affect EPA's reviews of at least seven other active ingredients that are also in the organophosphate class, and potentially other pesticides as well.

While environmentalists and farmworker groups have called for EPA to consider available epidemiological data in pesticide reviews, pesticide producers repeatedly pressed the Obama EPA to craft a transparent framework for evaluating the human data, noting a 2011 Obama administration directive for agencies to use best available science.

CropLife, the pesticide industry group, in December 2010 petitioned EPA seeking a rule establishing criteria for evaluating epidemiological studies for pesticide reviews.

EPA denied the petition in April 2011, and CropLife lodged its “significant inconsistency” petition with EPA last fall that specifically opposed EPA's use of a controversial Columbia University study of human exposures to chlorpyrifos to support the agency's October 2015 proposed ban of the commonly-used pesticide, arguing it violates FIFRA and the Food Quality Protection Act. -- *Dave Reynolds* (dreynolds@iwpnews.com)

InsideEPA

<https://insideepa.com/daily-news/cleanup-resumes-high-profile-lead-site-citizens-seek-broad-effort>

Cleanup Resumes At High-Profile Lead Site, As Citizens Seek Broad Effort

By Suzanne Yohannan 3/30/17

Cleanup is resuming at a high-profile lead-contaminated site in East Chicago, IN, after EPA

reached a long-negotiated administrative settlement with potentially responsible parties (PRPs), even as citizens are separately continuing to press for inclusion in a separate judicial consent decree in order to broaden the agency's response to the various sources of lead exposures to the community.

EPA March 20 announced an agreement with several PRPs at the U.S. Smelter and Lead Refinery, Inc. Superfund site, commonly known as the USS Lead Superfund site, in East Chicago.

The site has drawn national attention and comparisons to Flint, MI, -- where EPA and Michigan officials have drawn extensive criticism over lead in the city's drinking water -- after East Chicago officials gave notice in 2016 they were requiring demolition of a public housing project on a portion of the site upon learning from EPA of high residential lead levels.

Under the just-announced agreement, the PRPs will fund \$16 million of removal actions to be performed by EPA in two of the three zones at the site, according to a March 20 EPA press release. The PRPs are Atlantic Richfield Company, DuPont, Chemours, and United States Metals Refining Company.

The accord adds to a \$26 million consent decree signed in 2014 for work at the site. EPA Administrator Scott Pruitt says in the release that he and Indiana Gov. Eric Holcomb (R) "agree that protecting the well-being of the people who live on the USS Lead Superfund site is crucial." He adds, "EPA is accelerating the cleanup to keep residents safe in their homes and neighborhoods."

At the site, some properties tested at levels as high as 27,100 parts per million for lead, more than 60 times the hazard level, the citizen litigants point out.

Under the agreement, in zone 2 EPA will remove contaminated soil at about 72 properties. EPA has labeled these as priorities due to high levels of lead or arsenic or because the residences include pregnant women or children who are more sensitive to exposure risks, EPA says. For zone 3, EPA will clean up yards at approximately 120 properties, it says.

In both zones, EPA plans also "to test inside each home and conduct thorough cleanings as needed," it says.

Work in zone 1 is currently on hold until the city decides the future of the property, EPA says. In that zone, high levels of lead have prompted East Chicago officials to call for demolishing a public housing project on the land and relocating residents -- something for which the state of Indiana, according to recent news reports, has secured funding.

Outstanding Issues

Law professors who are representing East Chicago residents seeking to intervene in the 2014 consent decree say in a written statement to *Inside EPA* that they "are glad EPA has recovered more money from the responsible parties to fund the work that it has committed to doing" at the site and say they hope the agency will quickly address soil and indoor contamination.

At the same time, they say many other issues remain outstanding, "including contaminated drinking water, the need for committed funding for long-term remediation of hundreds of properties, and the changed future use for the portion of the site where public housing currently sits."

The site gained national attention last May after the agency informed East Chicago officials of high residential lead levels years after the site was placed on the National Priorities List in 2009 and despite multiple requests for information that officials say were ignored.

The residents, represented by two university law clinics, have been seeking to intervene in the 2014 consent decree, in an attempt to push EPA to recognize the various sources of lead that can burden an environmental justice (EJ) community. The citizens want EPA to more broadly address cumulative impacts for lead at the site.

If the litigation is successful, it could test how EPA factors in EJ and cumulative exposures at Superfund sites.

But the Justice Department (DOJ) in response has fought the residents' intervention request. Last December, DOJ in a legal brief in the case sought dismissal of the citizens' motion, saying the citizens fail to meet the legal prerequisites to intervene and, even if those were met, would be barred from suing under the Superfund law's prohibition on pre-enforcement judicial review of cleanup decisions.

The law professors say their motion to intervene is pending "and relevant to future activities at the site."

Environmental and community groups also more recently petitioned EPA to use its Safe Drinking Water Act authority to take emergency action at the site to ensure citizens have safe drinking water, responding to EPA's recent conclusion that there is system-wide lead contamination at the site. EPA found that more than 40 percent of homes tested at the site have elevated lead levels in drinking water caused by lead service lines and insufficient corrosion control treatment in the water system. -- *Suzanne Yohannan* (syohannan@iwpnews.com)

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Mashable

<http://mashable.com/2017/03/30/epa-press-release-mixup-capito-carper-climate/#b8zqfD2z4OqC>

EPA mistakenly tells the truth about Trump's climate plans

By Andrew Freedman 3/30/17

On Thursday morning, the Environmental Protection Agency sent out a press release containing praise for President Donald Trump's executive order that rolls back Obama-era climate change rules.

But the agency's press office made an obvious mistake in the first paragraph, which included harshly critical comments attributed to West Virginia Sen. Shelley Moore Capito, a Republican coal booster and prominent Trump supporter.

The quote, falsely attributed to Capito, actually belonged to Delaware Sen. Tom Carper, a Democrat.

Yet Carper's statement was far closer to the truth of what the Trump administration did when it ordered the EPA to begin the process of dismantling key greenhouse gas emissions reduction programs and other policies aimed at reducing harmful pollution.

The release quoted Capito as saying: "President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives... is not just irresponsible — it is irrational."

Doesn't exactly sound like praise, does it?

The statement went on to say that Trump's executive order goes against the "clear science" on climate change.

In reality, Trump, along with EPA chief Scott Pruitt, denies the mainstream science on climate change, and has called the exhaustively documented phenomenon a "hoax."

The EPA press office then corrected the statement, noting that it got the two senators' statements mixed up, as one does when their views and party are diametrically opposed to one another.

The mistake was especially strange because Capito had been singled out for praise during the signing ceremony at the EPA on Tuesday, which brought coal miners to the agency that wrote the climate policies Trump is trying to erase.

Capito's actual statement is far more supportive: "If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact," she said.

The EPA press shop apologized for the mixup. "We apologize for the error and are making sure that our process is improved as we build out our team," the statement said.

The Trump administration has proposed gutting the EPA's budget while eviscerating its ability to regulate carbon dioxide and methane emissions that are causing global warming. Huge cuts would hit the agency's science programs in particular.

Given the hostility to Pruitt within the agency, it's possible (though not likely) that the press release on Thursday was not a mixup, but rather an act of civil disobedience.

If so, more power to the bureaucrat who pulled it off.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052364>

House approves bill to overhaul science Advisory Board

By Sean Reilly 3/30/17

Legislation to revamp the membership of a key U.S. EPA advisory panel passed the House this morning, one day after the approval of a bill to limit how the agency uses science.

The "EPA Science Advisory Board Reform Act," H.R. 1431, cleared the House by a 229-193 margin. The vote closely followed party lines, with two Democrats voting yes and five Republicans opposed after a floor debate that didn't fill the allotted hour. Similar versions of the measure passed the House in 2014 and 2015, only to die in the Senate following Obama administration veto threats.

While President Trump is likely to be more receptive, continued Democratic opposition in the Senate could make it difficult for either measure to overcome the 60-vote hurdle needed to pass any contentious legislation.

Among other features, H.R. 1431 would require at least 10 percent of EPA's Science Advisory Board (SAB) members to come from state, local and tribal governments, allow industry representatives with a stake in the board's work to serve as long as any conflicts of interest are disclosed, but bar anyone currently receiving EPA grant funding. Board members would also have to undergo a "cooling-off" period under which they could not apply for EPA research funds or contracts for three years after leaving the panel. In addition, the board would have to solicit and respond to public comments on topics under review.

The legislation "ensures the best experts are free to undertake a balanced and open review of regulatory science," Rep. Frank Lucas (R-Okla.), the lead sponsor and vice chairman of the Science, Space and Technology Committee, said in opening today's debate. The fact that members may receive EPA funding creates at least the appearance of a conflict of interest, Lucas said, adding that some have taken explicit stands on issues — such as hydraulic fracturing — on which they're providing advice.

But Rep. Eddie Bernice Johnson of Texas, the Science panel's top Democrat, warned the measure was designed to "throw sand in the gears" of the advisory board process to the benefit of corporate interests. Not only would the measure limit the input of scientists, Johnson said, but it would "restrict the ability of the board to respond to important questions and increase the influence of industry in shaping EPA policy."

Created in 1978, the board is charged with offering advice to EPA as needed. More specifically, it's also supposed to review "the quality and relevance" of the scientific and technical information used by the agency, according to its website. The panel's 47 current members mostly come from academia; their ongoing work includes "economy-wide modeling of the benefits and costs of environmental regulation" and developing an assessment framework for "biogenic carbon dioxide emissions from stationary sources."

Existing law only calls for SAB members to be qualified "by education, training, and experience to evaluate scientific and technical information on matters referred to the board." Members are appointed by the EPA administrator, meaning that recently installed chief Scott Pruitt will have considerable freedom to reshape the board on his own.

Yesterday, the House approved [H.R. 1430](#), which would bar EPA from moving ahead with new regulations drawing on science that is not "transparent or reproducible" ([E&E Daily](#), March 30).

Both bills moved through the House the same week that Trump effectively dismissed mainstream climate science with the official launch of efforts to roll back the Clean Power Plan and other Obama administration efforts to curb greenhouse gas emissions.

"Less science, more pollution. That's, unbelievably, the Republican plan," Rep. Jan Schakowsky (D-Ill.) said this morning.

But to Rep. Clay Higgins (R-La.), enactment of the SAB bill would mark a welcome change from a status quo that allows EPA to set forth "ideological, biased and non-science-based rules and

regulations."

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052358>

Oil lobbyist to be agency's Hill Liaison

By Kevin Bogardus 3/30/17

An oil and gas lobbyist is joining U.S. EPA as associate administrator for congressional and intergovernmental relations, according to sources.

Troy Lyons, manager of federal government affairs at Hess Corp., is expected to start next week as EPA's liaison with Congress as well as state and local governments. It's a senior leadership position that takes on even greater importance now, considering President Trump's proposed deep budget cuts for the agency that are not sitting well with several lawmakers.

Lyons spent nearly two years at Hess as a federal government affairs manager, according to his LinkedIn profile. Before that, he worked at another oil and gas giant, BP America Inc., for more than three years.

Disclosure records filed with the Senate show that he was registered to lobby for both companies, including on issues involving EPA.

Last year, Lyons, on behalf of Hess, lobbied Congress on the Bureau of Land Management and EPA's methane regulations. In 2015 — his last year at BP — Lyons was one of several lobbyists at the company listed as working on legislation dealing with EPA's ozone rules and the renewable fuel standard.

Lyons has Capitol Hill experience, as well. He served as an aide to both former Sens. Kay Bailey Hutchison (R-Texas) and George Allen (R-Va.).

In addition, he worked in the George W. Bush administration at the Small Business Administration.

Lyons graduated from Randolph-Macon College with a bachelor's degree in political science and speech communication.

Other Hess officials have joined the Trump administration. Earlier this month, Drew Maloney, formerly vice president of global government and external affairs for the company, was picked by the president to lead congressional relations at the Treasury Department (*Greenwire*, March 15).

Lobbyists for energy interests have made inroads with Trump. Michael Catanzaro joined the White House as a top energy adviser while Andrew Wheeler is expected to be picked as EPA's

next deputy administrator.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052359>

States settle with automaker, hoping to set ‘precedent’

By Camille von Kaenel 3/30/17

Volkswagen AG has agreed to pay \$157.45 million to 10 U.S. states to settle environmental claims over its emissions cheating.

Since the revelation that its diesel cars polluted more than regulations allowed, the automaker has agreed to spend up to \$25 billion in the United States to buy back faulty vehicles and for civil and criminal settlements with drivers, regulators, states and dealers. While the majority of claims have been resolved, the automaker is still involved in several ongoing lawsuits.

The agreement announced today covers Connecticut, Delaware, Maine, Massachusetts, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington.

The states, called Section 177 states, have signed onto California's vehicle emissions rules allowed by a special Clean Air Act waiver that the Trump administration may try to revoke. Most have strict requirements for electric vehicle sales. The settlement marks the first time the states have secured environmental penalties from an automaker under the state emissions rules.

"Setting this precedent is particularly vital now, when President Trump has vowed to defund federal environmental enforcement and undo federal environmental protections, which would leave states like New York and California as the first line of defense for the environment," said a statement from the office of New York Attorney General Eric Schneiderman (D). "New York will continue to enforce the tough auto emission and greenhouse gas standards established by California, and intends to oppose any effort by the federal government to roll back EPA emission standards currently in place."

Under the agreement, Volkswagen must provide three electric car models, including two electric SUVs, by 2020 in the states, effectively tripling its offering. The automaker first made that commitment to California in a separate settlement (*Climatewire*, Dec. 21, 2016). The \$157 million in environmental penalties will be split among the states.

Volkswagen said the agreement "avoids further prolonged and costly litigation as Volkswagen continues to work to earn back the trust of its customers, regulators and the public."

The automaker previously reached a \$603 million agreement with 44 states for separate environmental and consumer claims.

This month, the automaker pleaded guilty to criminal charges including fraud, obstruction of justice and falsifying statements as part of a \$4.3 billion settlement reached with the Justice Department.

Last year, it finalized a \$14.7 billion settlement with drivers and regulators that included investments in electric vehicle charging and mitigating nitrogen oxides pollution from old diesel engines. Conservative critics have sought to have Trump's EPA renegotiate that settlement, calling it an effort to promote electric vehicles that sidesteps Congress (*Climatewire*, March 27).

Politico

<http://www.politico.com/agenda/story/2017/03/the-hidden-impact-of-trumps-energy-executive-order-000384>

The hidden impact of Trump's energy executive order

By Danny Vinik 3/30/17, 1:31PM

When President Donald Trump signed his executive order on climate change Tuesday, it was the rollback of Barack Obama's signature Clean Power Plan that dominated headlines.

But to energy lawyers, a different section of the order stood out—one that so far has received little attention, but could weaken every climate-related regulation produced by the government. Trump's order rewrites the rules for measuring the “social cost of carbon,” the crucial measuring stick that tells the government whether climate regulations are cost-effective or not.

Cost-benefit analysis is baked into nearly every new federal regulation, giving the White House both ammunition against judicial challenges and a way to sell the rules to the public. When it comes to carbon pollution, it's particularly hard to determine what the long-term costs are: How much should we consider the “costs” of increased flooding or severe storms that might happen in the future? What about climate disasters that happen elsewhere, but might ultimately impact America?

The Obama administration created a new, administration-wide measurement of that cost, forming a high-level, interagency working group to estimate the social cost of carbon. That committee met occasionally to review the latest academic literature and models and decide whether to update its estimate. The number underpinned the Obama administration's climate agenda, providing a scientific basis for regulations whose benefits are inherently very difficult to measure.

Trump's executive order eliminates the working group and effectively turns over the job of cost-estimation to individual agencies. The order also scraps all the technical underpinnings for the Obama group's work, and tells agencies to estimate carbon costs by following the guidance of a Bush-era regulatory document from 2003.

Both liberal and conservative experts agree the change could have far-reaching consequences. In effect, the order will make carbon pollution seem far less costly to society—reducing the benefits that can be ascribed to climate change regulations, and making it harder for such rules to pass a cost-benefit test. That would make it easier for the Department of Energy and Environmental Protection Agency to weaken Obama-era regulations on everything from the Clean Power Plan to mileage standards for cars and trucks to methane regulations. It could also ease approval for proposed infrastructure projects like the Keystone pipeline.

“It would have an enormous impact,” said William Yeatman, an energy expert at the free-market Competitive Enterprise Institute, which supports the changes.

Experts don't believe the Trump administration will simply ignore the social cost of carbon in their regulatory analyses, because tossing it out of the decision-making entirely would make the rules unlikely to survive a court challenge. Instead, agencies will likely come up with their own figures, using the OMB document as a guide. That document will lead to two main changes to the social cost of carbon. First, agencies will likely reduce their estimates of how much the future effects of lowering carbon should count in current decision-making. (In economic terms, this is known as raising the “discount rate,” or the rate at which future benefits are discounted to their value in present-day dollars.) And second, it will change whether agencies consider the global benefits of a rule, or just the domestic benefits.

Typically, agencies only look at the domestic effects of regulation. But environmentalists argue that climate change represents a special case because global warming has consequences that don't stop at national borders. U.S. climate policies affect other countries' policies; those countries' actions could also benefit the U.S. “We want other people taking us into consideration when they set their climate policies, so we should be doing the same,” said Alison Cassady, director of domestic energy policy at the Center for American Progress. It's an important question in policymaking because the social cost of carbon emissions becomes much more significant if you factor in global benefits. The Obama administration included global benefits in its calculation of the social cost of carbon—a practice that infuriated conservatives, who pointed out that the costs of carbon policies are almost entirely domestic, so agencies should only be narrowly looking at how regulations benefit the United States.

The 2003 OMB document specifically directs agencies to focus on the costs and benefits in the United States, not globally. If there are significant effects beyond the border of the United States, it says, those “should be reported separately.”

In the end, how will agencies look at the social cost of carbon under the Trump administration? Since the executive order eliminated the interagency working group, there won't be one consistent figure; each agency will now come up with its own estimates. But two Obama-era technical documents provide a clue about the social cost of carbon under Trump. One found that replacing Obama's preferred discount rate with a moderately higher one—a likely outcome under Trump—reduces the estimated social cost of carbon emissions by around 70 percent. Another now-rescinded document estimated that the global benefits of carbon reduction were anywhere from 4 to 14 times greater than the domestic benefits alone. If those two changes are taken together, the estimated social cost of carbon—which the Obama working group estimated at \$36 per ton of carbon emissions—could fall by over 80 percent to \$7.20 per ton. If agencies assume that the vast majority of the benefits from emissions reductions are outside of the U.S., it could possibly be as low as \$1.80 per ton. That would dramatically reduce the estimated benefits of any new carbon-reduction rule—thus making every climate-related emission restriction appear far more costly.

As an example of how it affects a real-world regulation, Cassady pointed to the 2016 methane rule, which limited methane emissions from oil and gas operations and now is going to be reviewed by the EPA and Interior Department. With a lower social cost of carbon, she said, "it'll be easier for [EPA Administrator] Scott Pruitt to justify doing nothing, because it will be harder to show that the benefits outweigh the costs. They will have changed the math to get the result they want."

Of course, conservatives levied the exact same change against the Obama administration, and this arcane debate is all but certain to end up in the exact same place: the courthouse.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/state-bar-association-opens-investigation-into-pruitt-emails-085711>

State bar association opens investigation into Pruitt emails

By Alex Guillen 3/30/17, 1:53PM

1. The Oklahoma Bar Association has opened an investigation into EPA Administrator Scott

Pruitt over his statement to Congress that he did not use his personal email address for work as the state's attorney general, an assertion his office later admitted was incorrect.

2.

However, it remains unclear whether Pruitt will face any serious consequences.

In a letter this week, the association said it has "opened this matter for investigation" and asked Pruitt to respond to the complaint. "We will then conduct whatever further investigation we feel is needed," the association wrote. Once any investigation is completed, it will go before the bar's Professional Responsibility Commission, which will decide whether to take action.

The investigation will remain "confidential," per state rules, and is "strictly limited to the ethical and professional conduct" of Pruitt, according to the bar association.

The Center for Biological Diversity and an Oklahoma law professor filed an ethical complaint with the bar association earlier this month.

Amy Atwood, a senior CBD attorney, said she is pleased with the investigation. "Lying to Congress is a serious ethical breach, and it doesn't help that Pruitt's use of private emails reflect potential collusion with the very oil and gas industry he's now supposed to be regulating," she said in a statement.

An EPA spokesman did not immediately respond to a request for comment.

InsideEPA

<https://insideepa.com/daily-news/legal-hurdles-await-trump-scraps-agency-tools-weigh-ghg-impacts>

Legal Hurdle Await As Trump Scraps Agency Tools To Weigh GHG Impacts

By Abby Smith 3/30/17

Climate policy supporters say the Trump administration and its backers face “substantial” legal hurdles as they work to scrap the Obama administration's social cost of carbon (SCC) metric and its guidance to account for climate impacts in environmental reviews, saying any retreat will bolster challenges to projects and regulations if they fail to adequately analyze such climate risks.

“Trump’s actions will sow grave uncertainty in how agencies plan for changing climate dynamics . . . whether we’re talking about energy production, watershed protection, or the construction of bridges, highways, power lines, dams, and other critical infrastructure,” Erik Schlenker-Goodrich, executive director of the Western Environmental Law Center, said in a statement.

He said the order's requirements “will also hide the true costs of fossil fuel projects to the public,” adding that environmentalists will sue if administration officials fail to ensure projects account for potential climate impacts.

“Rest assured: we will wield the full power of the law to combat the Trump order and continue our advocacy to transition away from fossil fuels and to build the resilience of our public lands, our rivers and forests, and our communities to withstand the impacts of climate change,” Schlenker-Goodrich added.

Such statements came in response to provisions in President Donald Trump's “Energy Independence” executive order, which calls for the administration to “rescind” Council on Environmental Quality's (CEQ) guidance for accounting for greenhouse gas and climate impacts in National Environmental Policy Act (NEPA) reviews.

The guidance goes “way beyond what NEPA requires,” a senior White House official says.

In addition, the guidance eliminates the SCC and related metrics for measuring the benefits of reducing methane and nitrous oxide, default values that agencies have used to justify a host of energy and environmental rules, including measures from EPA and the departments of Energy, Interior, Transportation and others.

The order directs the interagency working group that established the metrics to be “disbanded.” And Trump orders the withdrawal of six technical support documents establishing and updating the SCC and related metrics, saying they are “no longer representative of governmental policy.”

Instead, the executive order directs agencies to adhere to the Office of Management & Budget's (OMB) Circular A-4, a Bush administration document that outlines general principles for conducting regulatory cost-benefit analysis.

Conservative critics of the SCC have argued the Obama administration's metric ignores those guidelines, particularly by using a smaller discount rate to calculate the current value of future benefits and including global benefits -- both of which they say results in an overestimation of the benefits of reducing GHGs.

'Overwhelming Record'

But supporters of those policies say the Trump administration is likely to come under heavy legal fire as it attempts to downplay climate impacts and relax consideration of GHG reductions in regulatory analysis. EPA and other agencies will face challenges to regulations and other actions that fail to include such considerations, and those will likely become a venue to oppose the administration's elimination of the Obama-era policies.

“I'm sure there will be twists and turns,” but ultimately the view of several Trump administration officials downplaying or denying human-caused global warming “is not an attainable position,” one environmental attorney tells *Inside EPA*. “These guys have an overwhelming record before them, lots of work having been done. Now they're trying to turn back the clock, and it's going to be very awkward for them legally, factually and ultimately politically.”

“I think the obstacles will be substantial. They can't just pretend that these physical realities are not there,” the environmental attorney adds. “I think the view that some of the new agency heads have that climate change is not a thing is a tiny, minority view, even with industry. This is a real

fringe position. A lot of industry is deeply uncomfortable with the idea they're going to pretend climate change is not real.”

The source continues: “I don't think courts are going to buy it either.”

A second environmental attorney says the administration may run into difficulties as it seeks to explain to a court why it has reverted to prior policy that in many ways has been “superseded by new scientific and economic knowledge.”

But the source adds that while it will be important for the administration to have explained its reasoning, “the judicial reaction to it will depend in no small part on who is the judge and how much deference they choose to afford to the new EPA.”

Nevertheless, prior legal precedents, particularly on the SCC, may make it difficult for the Trump administration to step away from the metric altogether.

For example, environmentalists cite language in [a 2007 appellate court ruling](#) that finds the cost of carbon reductions is “certainly not zero.”

In that case, *Center for Biological Diversity (CBD) v. National Highway Traffic Safety Administration (NHTSA)*, the U.S. Court of Appeals for the 9th Circuit remanded the Bush administration's vehicle fuel economy standards to the agency in part because it failed to monetize the benefits of GHG reductions in its cost-benefit calculations.

NHTSA had argued it did not monetize such benefits because the value of GHG reductions was too uncertain to determine, an approach the court ruled was “arbitrary and capricious.”

“NHTSA insisted at argument that it placed no value on carbon emissions reduction rather than zero value. We fail to see the difference. The value of carbon emissions reduction is nowhere accounted for in the agency's analysis, whether quantitatively or qualitatively,” the court wrote.

'Climate Change Denialism'

Observers say that ruling's precedent will likely make it difficult for the Trump administration to justify not using a metric of some kind. And while the executive order directs agencies, to the extent they must monetize GHG reductions, to use Circular A-4, that approach is likely to come under heavy scrutiny.

Even a decade ago when the scientific record was more limited and much less work had been done to determine an appropriate metric, “the courts were uncomfortable with the Bush administration's much more modulated position,” the first environmental attorney says.

And if the Trump administration were to offer a weaker SCC metric -- or account for GHG reductions in a more limited way -- it “will be hard for anyone to not see that through this lens that the administration has embraced climate change denialism,” the source adds.

The attorney says that perception impacted the court's decision in the *CBD* case to some extent, and that could be magnified in the Trump era. “There was a sense the [Bush] administration really didn't want to do anything about climate,” the source said, noting that likely “influenced the court's evaluation of” the Bush administration's explanations.

Observers also point to a 2016 ruling from the 7th Circuit, *Zero Zone, Inc., et al. v. Department of Energy (DOE), et al.*, where the court upheld the department's use of the SCC in cost-benefit analysis for an energy efficiency standard.

That ruling, which found DOE's use of the SCC reasonable and worthy of deference, will be especially significant if the Trump administration departs from the Obama administration's approach, says Denise Grab of the Institute for Policy Integrity.

In challenges to a Trump agency's analysis of GHG impacts, SCC supporters “could use the *Zero Zone* case as a contrast” to show how the Trump administration's approach “is not reasonable and rational” and “defers from the approach the court has already upheld,” she tells *Inside EPA*.

In addition, observers argue that even when the SCC is used, agencies still do their analysis subject to Circular A-4, and they say the Trump administration may find it hard to justify the document's requirement that analysis be “based on the best reasonably obtainable scientific, technical and economic information available.”

Discount Rate

Noah Kaufman of the World Resources Institute (WRI) says the Trump administration could face scrutiny as it attempts to shift some of the SCC's inputs -- such as the discount rate and the consideration of global impacts -- to relax the consideration of GHG reductions in policymaking.

“There's not one serious economist who works on climate change that thinks for intergenerational problems like climate change a 7 percent discount rate is at all appropriate,” Kaufman says. The Obama SCC metric uses discount rates ranging from 2 to 5 percent, but conservative critics have argued Circular A-4 requires the use of a 7 percent rate.

Kaufman says it could be hard for the Trump administration to justify a 7 percent discount rate. “Presumably they could point to Circular A-4, but if they're forced to go any steps further, it will fall apart.”

The issue of global versus domestic impacts is “a little trickier,” Kaufman says, though he says many climate economists urge a global consideration because climate change is a global problem. “That's another situation where the statutory requirement could come up against what the best science and economics tells us to do.”

Kaufman says that the Trump administration cannot do irreparable harm to the SCC, as a future administration could return to using the metric consistent with “the best available science and economics.” But he notes Trump attacks on the metric will deal a blow to overall progress on climate research.

“The shame of it is” during the Obama administration “the U.S. government has been a really important and valuable tool in pushing forward our knowledge on climate science and climate economics,” Kaufman says. “While a future administration could certainly get back on that pathway, it would be a shame if we lost the research and the skill that the folks in EPA and DOE and across the government have contributed to our knowledge.”

Other observers are expressing similar concerns over the administration's decision to withdraw the NEPA guidance. “It's not enough that the president wants to bury his head in the sand when it comes to climate change; now he insists that the rest of the federal government do the same, making climate denial the official policy of the U.S. government,” Robert Verchick of the Center for Progressive Reform.

He calls the directive to stop accounting for climate impacts in federal planning the “hidden landmine” in the order, adding it “will invite costly litigation, since some federal courts require” the consideration of climate impacts under NEPA.

Nonetheless, supporters argue Trump's rescission of the GHG guide does not preclude the consideration of such impacts, and they expect individual permits that exclude it to be challenged.

Trump's order “does not remove the general duty to consider climate change impacts on federal actions,” but it “does take away modern, uniform and sophisticated tools to use in that evaluation,” said Ann Weeks of the Clean Air Task Force during a March 29 press call. -- *Abby Smith* (asmith@iwpnews.com)

Washington Examiner

https://news.google.com/news/url?sr=1&sa=t&ct2=us%2F0_0_s_1_0_t&usg=AFQjCNGGsyFFy0_NRKYRFpD_backfires-in-trying-to-praise-trumps-climate-order%2Farticle%2F2618900

EPA backfires in trying to praise Trump's climate order

By John Sicilano 3/30/17, 1:58PM

The Environmental Protection Agency tried to show praise for President Trump's [climate change](#)

executive order on Thursday but instead may have done the opposite.

In an email sent out Thursday morning, attempting to show what industry groups and lawmakers are saying about Trump's action, the EPA included the remarks of a leading critic of Trump's anti-climate change efforts, Democratic Sen. Tom Carper of Delaware, instead of the remarks of one of his champions, Sen. Shelley Moore Capito, R-W.Va., from coal country, but attributed the quote to Capito.

On top of that, it was the first item in a long list called "What they are saying about President Trump's executive order on energy independence."

This is what it said:

Senator Shelly Moore Capito (W.Va)

With this executive order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible – it's irrational. Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime. With the world watching, President Trump and Administrator [Scott] Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.

The EPA scrambled about an hour later to fix the problem, releasing the same praiseworthy email minus the Carper comments with CORRECTION in the subject line.

An EPA representative apologized for the flub, according to *Politico*. Trump had continually called out to Capito using her first name to thank her for her support at the signing ceremony on Tuesday.

The Trump order rolls back former President Barack Obama's climate change agenda, which the administration framed as a victory for the U.S. coal mining industry.

The Blaze

<http://www.theblaze.com/news/2017/03/29/house-passes-bill-stopping-epa-from-using-hidden-data-when-crafting-regulation/>

House passes bill stopping EPA from using hidden data when crafting regulation

By Brandon Morse 3/29/17, 7:52PM

On Wednesday, in a 228-194 vote, the Republican-controlled House passed a bill that would prohibit the Environmental Protection Agency from crafting regulation based off of scientific data that has not been seen by the public.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, will force the EPA to

use data that is publicly available when crafting regulations, potentially leaving out medical findings that are kept hidden from the public to protect patient privacy. Provisions have been set aside within the bill to redact personal information, however.

“This legislation ensures that sound science is the basis for EPA decisions and regulatory actions,” said Rep. Lamar Smith (R-Texas), chairman of the Science Committee, and author of the bill.

“The days of ‘trust-me’ science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review,” he continued. “That’s called the scientific method.”

Smith discussed how during the previous administration, the EPA would craft and enforce regulation that would be based off of data that was hidden from the general public. The Texas congressman said that he also cares about the environment, but transparency is needed in order for the science being used to impose regulation to be legitimate.

“We all care about the environment,” he said. “But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain.”

Democrats, however, are claiming that Smith’s bill will essentially cripple the EPA, and endanger everyone. In a memo from the Democratic Staff of the Committee on Science, Space, and Technology, they argued that it “would prevent EPA from functioning effectively and using the most relevant scientific data,” and that end result would be that the “EPA’s work grinds to a halt and the health of Americans and the environment are put at risk.”

The EPA may be taking even more hits in the future, as President Donald Trump’s budget plan for 2018 has the government organization taking a 30 percent reduction in funding.

Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/epa-climate-release-tries-to-praise-trump-but-blasts-him-instead-085685>

EPA climate release tries to praise Trump but blasts him instead

By Alex Guillen 3/30/17, 11:51AM

An EPA effort to showcase praise for President Donald Trump’s climate moves went awry today — and instead accused Trump of choosing “to recklessly bury his head in the sand.”

The criticism came in a quote from Democratic Sen. Tom Carper of Delaware, which EPA inaccurately attributed to Sen. Shelley Moore Capito (R-W.Va.), a strong supporter of the coal industry and Trump's order.

"President Trump has chosen to recklessly bury his head in the sand," said the quote, which appeared at the top of the EPA press release's litany of reactions to Trump's climate order. The quote added that the order "calls into question America's credibility," and said the president and Administrator Scott Pruitt "have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made."

Carper is the top Democrat on the Environment and Public Works Committee. Capito's actual statement, of course, praised Trump and the executive order, which instructed the agency to roll back a series of former President Barack Obama's most important climate change initiatives.

An EPA spokesman said the mix-up was a mistake. "We apologize for the error and are making sure that our process is improved as we build our team," he said. The agency swiftly issued a new version of the email, which also corrected the spelling of Capito's first name.

Trump specifically named Capito at the signing Tuesday at EPA headquarters in thanking various lawmakers, Cabinet members and industry leaders for their work.

"And Shelley, thank you very much also, I spotted you in the audience. Thank you," Trump said.

EPA's list also included praise from Kentucky Gov. Matt Bevin and West Virginia Attorney General Patrick Morrisey, as well as various industry groups, including the American Coalition for Clean Coal Electricity and the American Petroleum Institute.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/pruitt-pesticide-decision-shows-epas-new-direction-085686>

Pruitt: Pesticide decision shows EPA's new direction

By Jenny Hopkinson 3/30/17, 11:39AM

EPA Administrator Scott Pruitt is pointing to the denial of a petition from environmentalists that sought to ban the pesticide chlorpyrifos as an example of the new direction he has set for the agency.

In remarks this morning to the National Cattlemen's Beef Association's Legislative Conference in Washington, D.C., Pruitt said he plans to lead EPA by closely following the law, restoring the rulemaking process to what he sees as its rightful place and working in conjunction with the states.

Pruitt said he denied the longstanding request from Pesticide Action Network North America and the Natural Resources Defense Council — a request that was followed by the Obama administration's finding that the pesticide could pose health risks to children — because, in his view, the petition took regulation of the pesticide out of the process that Congress instructed EPA to follow. A federal court had given EPA until the end of the week to make a decision on the 2007 petition.

"Because that process was breached, we said no; we denied that petition," Pruitt said. "It's not going to be regulated. ... Process is going to be respected."

New York Magazine

<http://nymag.com/daily/intelligencer/2017/03/epa-chief-declines-to-ban-pesticide-linked-to-fetal-damage.html>

EPA Chief Overrides Own Scientists, Declines to Ban Pesticide Linked to Fetal Damage

By Eric Levitz 3/30/17, 10:05AM

In 2015, scientists at the Environmental Protection Agency advised the Obama administration to ban one of the nation's most popular pesticides, chlorpyrifos, after concluding that the chemical impaired fetal brain and nervous-system development. Specifically, the children of farm workers exposed to heavy doses of the product appeared to suffer aberrantly high rates of learning,

memory, and behavioral problems. The chemical had already been banned for indoor use, in 2001, due to similar concerns.

But Dow Chemical, which makes chlorpyrifos, wasn't convinced. Nor were many farm groups that rely on the pesticide. And they began lobbying the Obama administration to reject the environmentalists' supposed alarmism.

Last July, an EPA scientific-review panel scrutinized the agency's research on chlorpyrifos, and identified some causes for skepticism about the conclusiveness of its findings. This led to revisions in the researchers' report. Still, as of late last year, EPA staff maintained that the chemical should be prohibited.

But the agency's new leader, Scott Pruitt, who built his national profile by suing the EPA on behalf of industrial interests, decided to err on the side of birth defects Wednesday night.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a written statement. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results."

In rejecting the ban, Pruitt took "final agency action" on the question of chlorpyrifos's safety, a move that suggests the EPA will not revisit the matter until 2022.

It's worth noting that the Obama administration seems to have dragged its feet on this ban, and that there were some quibbles with the initial, underlying research within the EPA. But it is rather difficult to give Pruitt the benefit of the doubt, given the Trump administration's broader contempt for scientific inquiry.

The day before Pruitt's announcement, Trump issued a series of executive orders reversing Barack Obama's Clean Power Plan, and other climate-change policies. He did this without soliciting any advice or guidance from scientists and engineers inside the White House, according to the New York Times. That same day, according to *Politico*, staffers at the Department of Energy's climate office were told not to use the words "climate change" or "Paris

Agreement” in any written memos — or else the DOE’s new chief, Rick Perry, would have a “visceral reaction.”

Meanwhile, Trump has failed to appoint anyone to the White House’s top advisory positions on technology or science. The administration’s Office of Science and Technology Policy is becoming a ghost town.

Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump’s EPA Won’t Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17, 8:33AM

President Donald Trump’s Environmental Protection Agency (EPA) rejected environmentalists’ demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA’s own analysis found that “there do not appear to be risks from exposure to chlorpyrifos in food.” The agency’s own website says chlorpyrifos is safe for humans in “standard” amounts.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a press statement. “By reversing the previous Administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results.”

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA’s attempts to ban the pesticide.

“Dow AgroSciences supports U.S. Environmental Protection Agency’s (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos,” the

company said in a statement. “Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops.”

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled “Protect Our Children’s Brains.”

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn’t completed its assessment of the pesticide’s effects on drinking water and that “certain science issues” regarding chlorpyrifos are “unresolved.”

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, “the risks of pesticides in the diet are remote, long-term, and theoretical, and there is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

The Hill

<http://thehill.com/policy/energy-environment/326472-house-approves-epa-science-committee-overhaul>

House approves EPA science committee overhaul

By Devin Henry 3/30/17, 10:42PM

The House on Thursday approved a bill to overhaul the Environmental Protection Agency's (EPA) scientific advisory committee.

The legislation from Rep. Frank Lucas (R-Okla.) would change membership requirements for the EPA's Science Advisory Board to include more industry voices, expanding financial and conflict of interest disclosure requirements and giving the public the chance to more readily comment on the board's actions.

The bill is similar to one that passed last Congress, and it comes one day after the House approved another bill aimed at the EPA's use of science. Lucas's bill passed on a 229-193 vote.

"This is a bill that is built on the policies we should uphold regardless of which side of the political aisle we are on, or who happens to be president," Lucas said.

The bill "ensures the best experts are free to undertake a balanced and open review of regulatory science."

The EPA's Science Advisory Board reviews the scientific and technical research that goes into the agency's rulemaking process, and it advises the agency on other scientific matters.

Democrats broadly opposed Lucas's bill, saying its requirements would undermine EPA's research by allowing more industry influence over the scientific process.

Rep. Eddie Bernice Johnson (D-Texas) said the bill would restrict the agency's rulemaking by giving too much influence to regulated industries.

She contended that if the bill had been law during fights over tobacco regulations in the 1990s, "Big Tobacco likely would have succeeded in cooping the Science Advisory Board."

The bill “is designed to harm the EPA’s ability to use science to make informed decisions,” she said. “This is not the best interest of the American public.”

Thursday's vote comes after the House passed a bill to restrict the type of science and data the EPA uses to write new regulations.

The House voted 228-194 on Wednesday to prohibit the EPA from writing rules using science that is not publicly available. That legislation is similar to measures passed in previous Congresses.

CNN

<http://www.cnn.com/2017/03/29/opinions/trump-signs-earth-death-warrant-jones/index.html>

Van Jones: Trump may have signed Earth’s death warrant

By Van Jones 3/30/17, 10:31AM

As usual, Donald Trump is completely upside down on the facts.

In 2015, President Barack Obama created the Clean Power Plan to slow climate disruption. It was the first action ever taken by the US government to cut carbon pollution from existing power plants.

And this week, with the stroke of a pen, President Trump directed the Environmental Protection Agency (EPA) to take steps to end it.

Trump may have just signed a death warrant for our planet (at least, for a planet that is liveable for humans). And the lies he told to justify it have real consequences for real Americans, here and now.

First, Trump says he wants to dismantle the Clean Power Plan because it represents what he calls "job-killing regulation." False -- limited losses in some sectors are dwarfed by gains in others.

The potential for job growth in the clean energy sector dwarfs any potential job growth in the fossil fuel economy. For example, Trump promised the Keystone XL pipeline would create

28,000 jobs when he approved the project. But he had to use a huge multiplier to get to even that low number. In fact, it would create about 3,000 temporary construction jobs and only 35 permanent jobs. That's right: 35 permanent jobs.

By comparison, in 2016 the number of jobs in solar grew 25% from the year prior, according to figures from the nonprofit Solar Foundation, while jobs in the rest of the economy had less than 2% growth. Renewable energy jobs now create jobs 12 times faster than the rest of the economy.

For Trump to ignore this fact is inexcusable and irresponsible. He's actually hurting the people he claims to help by refusing to invest in opportunities for more jobs in the booming clean energy sector.

By the way, if Trump really cares about those coal miners he invited to the signing ceremony, he should be doing something about the 20,000 who are sick, retired, and within weeks of losing their health benefits if Congress doesn't act. When will Trump call a press conference about them?

Second, Trump claims that the Clean Power Plan was an EPA overreach -- an abuse of its authority. Again, false. The plan is based on Republican President Richard Nixon's Clean Air Act. And the EPA's authority to fight climate disruption was established by a ruling of conservative Chief Justice John Roberts' Supreme Court, under President George W. Bush. In Massachusetts v. EPA (2007), five justices determined that EPA not only has the authority but also the responsibility to cut pollution if it endangers public health -- which it does.

Curbing carbon pollution -- and defending America's land, water and people from other potentially lethal threats -- is neither a liberal value nor a conservative value. Protecting Americans from climate chaos is in everyone's interest.

Third, Trump says eliminating environmental regulations will make America great again. Remember when we had burning rivers? That wasn't so great.

If we follow the Trump trajectory, we're going to be bringing smog back to American cities,

accelerating asthma rates in children, putting more poison in the groundwater and costing a lot of Americans their lives.

Trump wants to focus on "job-killing regulations." We should be equally concerned about potentially child-killing de-regulation.

Government must balance the interests of people's ability to earn a living ... against their ability to actually live. Trump seems to have completely forgotten this.

For example, Kamita Gray in Brandywine, Maryland is living on the frontlines of some of the worst pollution in America. Brandywine is in Prince George's county, which has a population that is 65% African American. This community has three power plants in its backyard already. Two more are being developed. The air quality is so bad there that when the wind blows, people do not leave their homes.

It will be communities like Brandywine that are left to deal with the brunt of fossil fuel pollution from power plants in their neighborhoods. If Trump wants to make America great again, he needs to remember that Brandywine is a part of America, too.

Mother Jones

<http://www.motherjones.com/environment/2017/03/pruitts-epa-capito-carper-lol>

“Irrational,’ ‘Reckless,’ Irresponsible’: The EPA Just Accidentally Told the Truth About Trump’s Climate Plan

By Rebecca Leber 3/3/0/17, 11:06AM

On Tuesday, President Donald Trump visited the Environmental Protection Agency, where he signed an executive order dismantling key Obama-era policies aimed at fight climate change. On Thursday morning, the EPA sent out a press release highlighting some wonderful praise that Trump's order has received from groups such as the Chamber of Commerce, the American Petroleum Institute, the American Coalition for Clean Coal Electricity, and—of course—Republican politicians. But the top quote in the EPA's email, attributed to Sen. Shelley Moore Capito (R-W.Va.), had an unexpected message:

With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical

resiliency projects is not just irresponsible—it's irrational. Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime. With the world watching, President Trump and Administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.

(Hat tip to Pat Ambrosio).

This is obviously not the glowing review Trump was hoping to get from a coal-state Republican senator. Alas, it appears that someone at the EPA screwed up. That statement actually comes from a Democrat, Sen. Tom Carper (Del.)—not from Capito. If the EPA press release continued to quote from Carper, this would have been the next line:

This order clearly proves that this administration is not serious about protecting jobs and our environment. As a West Virginia native, I understand the plight of coal miners in today's day and age. But the Clean Power Plan isn't the coal industry's problem—market forces are. Let's be perfectly clear: this executive order will not bring back the coal industry. It is an insult to the men and women who voted for him for Donald Trump to say otherwise.

Trump recognized Capito, the West Virginia senator, multiple times in his speech at the EPA Tuesday. He also declared that coal is clean. At the same event, Interior Secretary Ryan Zinke declared the so-called "war on coal" to be over.

The EPA has now sent out a revised version of the press release, correctly quoting Capito's praise of Trump's order. And this time, the agency even spelled her name correctly.

Update: I reached out to some environmental groups and Carper's office over email for comment.

"Senator Carper is happy to lend his words to a good cause," the senator's spokesman said.

Sierra Club Executive Director Michael Brune said, "That quote is the first true thing Scott Pruitt's office has put out yet."

"MWAHAHAH," 350.org's communications director Jamie Henn began. "The Trump Administration's actions are so outrageous and counter-intuitive that even they can't keep up with the lies that they're spinning out to the public. For once, Capito sounds like she's right on: these executive orders are reckless, irrational, and wildly damaging."

Mother Jones

<http://www.motherjones.com/environment/2017/03/trump-epa-brain-damaging-pesticide>

UPDATED: Trump's EPA Just Greenlighted a Pesticide Known to Damage Kids' Brains

By Tom Philpott 3/29/17

UPDATE (3-29-2017): EPA director Scott Pruitt signed an order denying the agency's own proposal to ban chlorpyrifos, according to a Wednesday afternoon press release. "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a written statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

By Friday, President Donald Trump's Environmental Protection Agency will have to make a momentous decision: whether to protect kids from a widely used pesticide that's known to harm their brains—or protect the interests of the chemical's maker, Dow AgroSciences.

The pesticide in question, chlorpyrifos, is a nasty piece of work. It's an organophosphate, a class of bug killers that work by "interrupting the electrochemical processes that nerves use to communicate with muscles and other nerves," as the *Pesticide Encyclopedia* puts it. Chlorpyrifos is also an endocrine disrupter, meaning it can cause "adverse developmental, reproductive, neurological, and immune effects," according to the National Institutes of Health.

Major studies from the Mount Sinai School of Medicine, the University of California-Davis, and Columbia University have found strong evidence that low doses of chlorpyrifos inhibits kids' brain development, including when exposure occurs in the womb, with effects ranging from lower IQ to higher rates of autism. Several studies—examples here, here, and here—have found it in the urine of kids who live near treated fields. In 2000, the EPA banned most home uses of the chemical, citing risks to children.

Stephanie Engel, an epidemiologist at the University of North Carolina and a co-author of the Mount Sinai paper, says the evidence that chlorpyrifos exposure causes harm is "compelling"—and is "much stronger" even than the case against BPA (bisphenol A), the controversial plastic additive. She says babies and fetuses are particularly susceptible to damage from chlorpyrifos because they metabolize toxic chemicals more slowly than adults do. And "many adults" are susceptible, too, because they lack a gene that allows for metabolizing the chemical efficiently, Engel adds.

But even after banning chlorpyrifos from the home, the EPA allowed farms to continue spraying it. While US farmers eased up on it in recent years, they're still using quite a bit, mainly on corn and soybeans in the Midwest and on fruit, vegetable, and orchard crops in Washington, California, and the Southeast. About a fifth of all the chlorpyrifos applied on US farms happens in California. There, the main target crops are alfalfa, almonds, pistachios, walnuts, tomatoes, and strawberries.

In October 2015, after a review spanning more than a decade, the EPA concluded that exposure to chlorpyrifos posed an unacceptable risk to human health, both from residues on food and in drinking water, and proposed a new rule that would effectively ban farm use of it. The agency also expressed concern about "workers who mix, load and apply chlorpyrifos to agricultural and

other non-residential sites and workers re-entering treated areas after application."

The EPA then dragged its feet on finalizing the rule; but in August 2016, a US Federal Appeals court demanded that a decision be made by March 31, 2017, chastising the agency for its "continued failure to respond to the pressing health concerns presented by chlorpyrifos."

A few months after that order, of course, Trump won the presidency, and so his EPA team will make the final decision on chlorpyrifos. Uh-oh. Trump often trumpets his own hostility to regulation and has backed it up by proposing a 31 percent cut in the EPA's budget. Before taking office, Trump looked to Myron Ebell of the hyper-libertarian Competitive Enterprise Institute to lead the EPA's transition. Ebell focuses mainly on denying climate change and promoting fossil fuels, but as I noted in November, CEI runs a website, SafeChemicalPolicy.org, that exists to downplay the health and ecological impacts of pesticides.

Trump's pick to lead the EPA, former Oklahoma Attorney General Scott Pruitt, is a non-scientist with little track record in assessing the health risks posed by chemicals. But he does hew to Trump's general hostility to regulation. At his confirmation hearings, Pruitt couldn't name a single EPA regulation he supports, and he even declined to say whether he'd finalize the EPA's proposed ban on asbestos.

Meanwhile, Dow and the pesticide industry trade group CropLife America are pushing the EPA to backtrack on the chlorpyrifos ban. "The court ordered EPA to make a final decision on the petition by March 31, 2017, but did not specify what that decision should be," Dow noted in a November 10 press release urging the agency to maintain the status quo.

Dow AgroSciences' parent company, Dow Chemical, has also been buttering up Trump. The company contributed \$1 million to the president's inaugural committee, the Center for Public Integrity notes. In December, Dow Chemical Chairman and CEO Andrew Liveris attended a post-election Trump rally in the company's home state of Michigan, and used the occasion to announce plans to create 100 new jobs and bring back another 100 more from foreign subsidiaries. Around the same time, Trump named Liveris chair of the American Manufacturing Council, declaring the chemical exec would "find ways to bring industry back to America." (Dow has another reason beside chlorpyrifos' fate to get chummy with Trump: its pending mega-merger with erstwhile rival DuPont, which still has to clear Trump's Department of Justice.)

Kristin Schafer, policy director for the Pesticide Action Network, says it would be highly unusual for the EPA to backtrack on a decision to ban a chemical after so strongly signaling that it would. (PAN is one of the advocacy groups that sued the EPA way back in 2007 over its previous lack of action on chlorpyrifos.) But she added that "all bets are off with this administration."

She pointed out that the EPA and Dow have been battling over the chemical since the Clinton administration. Back in 1995, the agency fined the company \$732,000 for failing to disclose more than 100 reports of chlorpyrifos poisoning. "These reports are particularly important," the agency complained, because chemicals enter the marketplace without any human testing, and poisoning notices "may document effects not seen in animal studies, or indicate areas which

warrant further research." Most of those alleged poisoning incidences involved exposure in the home—chlorpyrifos was then the most-used household and yard insect-killer. By 2000, as noted above, the EPA had seen fit to ban most home uses of the insect killer.

In an analysis of the risks posed by chlorpyrifos released in November 2016, the EPA crunched data on residues found in food and compared them to the levels at which the chemical can harm the most vulnerable populations: kids and women of child-bearing age. The results (found on page 23 of the EPA doc) are startling. Natural Resources Defense Council researchers turned them into this handy graphic:

It would be quite something for the Trump administration to dismiss such overwhelming evidence from EPA scientists and continue allowing chlorpyrifos to be sprayed on crops with few restrictions. But he has already displayed a willingness to trash the agency's rule-making process to placate his Big Ag supporters.

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NPR

<http://www.npr.org/sections/thesalt/2017/03/29/521898976/will-the-epa-reject-a-pesticide-or-its-own-scientific-evidence>

EPA Decides Not To Ban A Pesticide, Despite Its Own Evidence Of Risk

By Dan Charles 3/29/17, 7:06PM

Update 7:06 P.M. Eastern: The EPA says it's reversing course and keeping chlorpyrifos on the market.

That's despite the agency's earlier conclusion, reached during the Obama administration, that this pesticide could pose risks to consumers. It's a signal that toxic chemicals will face less restrictive regulation by the Trump administration.

In its decision, the EPA didn't exactly repudiate its earlier scientific findings. But the agency did say that there's still a lot of scientific uncertainty about the risks of chlorpyrifos, and it said that because of that uncertainty, the court had no right to set a firm deadline for a decision. A federal court had ordered the EPA to decide by midnight on Friday whether to ban chlorpyrifos. The Obama administration proposed this ban back in 2015.

The EPA says it will keep studying the chemical.

Patti Goldman, from the environmental group Earth Justice, calls the decision "unconscionable," and says that her group will fight it in court.

New EPA Administrator Scott Pruitt made his reputation opposing the agency's regulations, and many farm organizations expected him to renounce the proposed ban. But doing so would mean disregarding a substantial pile of scientific evidence that his agency has assembled on the risks of this chemical.

Our original story continues.

Farmers have been using chlorpyrifos since 1965. Most of them know it by its trade name, Lorsban. When Wesley Spurlock, a farmer in the panhandle of Texas, sees worms on his corn or aphids on his wheat, this is the chemical that he typically loads into his sprayer.

"This chemical doesn't scare us at all," he says.

He does wear special clothing to protect himself, though. Because this chemical attacks the nervous systems of insects and people. It can cause dizziness, vomiting and diarrhea. So he's careful when handling it. "You don't spill any of it. It goes into the sprayer, we don't splash it around and make a mess," he says.

If he's spraying near the house, he might tell the kids to stay inside until the job is done. "By doing all this, it's a safe product," he says. "It's doing its job and it's doing it well."

Fruit and vegetable farmers use this chemical on citrus trees, strawberries, broccoli and cauliflower. This can leave residues on those foods in the supermarket. Several environmental advocacy groups have gone to court to force the EPA to ban the use of chlorpyrifos by farmers because of the risks that the chemical poses to consumers and to people who live near fields where it's used.

"Based on the harm that this pesticide causes, the EPA cannot, consistent with the law, allow it in our food," says Patti Goldman, an attorney with the environmental advocacy group Earthjustice.

More than a decade ago, the EPA banned the spraying of chlorpyrifos indoors to get rid of household bugs.

At that time, though, the EPA thought that use on the farm posed little risk. The agency was relying on scientific studies that directly measured the immediate effect of chlorpyrifos on the nervous system. Residues on food weren't nearly enough to keep nerves from working normally.

But then new evidence surfaced. Jim Jones, who was assistant administrator of the EPA and responsible for pesticide regulation before he left the agency in January, says the new evidence came from studies in which scientists followed hundreds of mothers and their newborn children, monitoring their exposure to lots of chemicals. One of these studies, by researchers at Columbia University, measured the levels of chlorpyrifos in blood taken from umbilical cords when babies were born.

While the study was going on, the ban on indoor uses of chlorpyrifos came into effect. So over the course of those years, scientists were able to gather data on children who had been exposed to very different levels of the pesticide.

They found that exposure to chlorpyrifos caused small but measurable differences in brain function. At age 7, the average IQ of children who had been exposed to high levels of chlorpyrifos was a few percentage points lower than children who hadn't been exposed to much of the chemical at all. Other studies showed that some people are much more vulnerable to chlorpyrifos because of their genetic makeup.

The studies suggested that this chemical was more dangerous than people had previously realized.

Jones says the EPA struggled to translate the findings of these studies into a prediction of risk from chlorpyrifos residues on food. For one thing, the agency had to come up with an estimate of how much chlorpyrifos the women had been exposed to, based on levels of chlorpyrifos in their blood.

"But once we cracked that nut, and you had the risk evaluated and in front of you, it became, in my view, a very straightforward decision, with not a lot of ambiguity in terms of what you would do," he says.

The law on pesticides is very strict: It requires "a reasonable certainty that no harm will result" to consumers or people living in the areas where pesticides are applied.

In 2015, the EPA proposed a ban on chlorpyrifos.

Dow Agrosciences, the company that sells chlorpyrifos, insists that a ban is unjustified.

Jim Aidala, a former pesticide regulator at the EPA who now works as a consultant to Dow, says that many scientists — including those on a committee that the EPA asked to look at this question — aren't convinced by the scientific methods the EPA used. "There's a lot of controversy about this," he says.

But the EPA is facing a deadline, because of legal challenges from environmental groups, including Earthjustice, which have submitted a petition that the EPA ban chlorpyrifos. A federal judge ordered the agency to make a final decision on this petition by March 31.

"I'm waiting with bated breath for Friday, to see what they're going to go," Jones says. "I just don't know what basis they would have to deny the petition [to ban the chemical], given the vast scientific record that the EPA's got right now."

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display_adp?fedfid=108215045&vname=dennotallissues&wsn=49950550

EPA Won't Ban Controversial Dow Pesticide

By Tiffany Stecker 3/23/17

The EPA has reversed course in its effort to restrict a widely used, insect-controlling pesticide, backpedaling on one of the Obama administration's key initiatives to lower pesticide exposure.

The Environmental Protection Agency will deny a decade-old petition from environmental groups to revoke all uses, called "tolerances," of chlorpyrifos on food, EPA Administrator Scott Pruitt announced March 29. The insecticide is an important crop protection tool for fruit, vegetable and row crop growers.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making—rather than predetermined results.”

The agency released its decision two days before a court-ordered deadline to act on the 2007 petition from the Pesticide Action Network and the Natural Resources Defense Council. The Department of Justice is expected to file its response to the U.S. Court of Appeals for the Ninth Circuit by the end of the week.

Another Blow to Obama's Green Legacy

The farm and landscaping insecticide was developed by Dow AgroSciences and first registered by the EPA in 1965. Environmentalists have sought to end use of the chemical, which they say has been linked to neurodevelopmental delays in children, for decades.

In denying the petition, the EPA said it disagreed with the methodology used by the previous administration to justify what amounts to a near-ban of the chemical.

The agency issued a proposed rule to revoke the tolerances in 2015, using its authority in the 1996 Food Quality Protection Act. The agency based part of its scientific justification for doing so on epidemiological studies that measured levels of the chemical in exposed women and children.

Under former Administrator Gina McCarthy—President Obama's second nominee to run the agency—the EPA worked to solidify the scientific justification for revoking the tolerances, including a human health risk assessment that relied in part on a controversial epidemiological study from Columbia University on children's health effects.

Epidemiologists say these population studies record changes in learning and behavior that can't be traced in the rodent experiments that historically serve as the basis for the EPA's pesticide regulations. But the chemical industry argues that epidemiological studies are difficult to control, and adverse outcomes can be attributed to a range of diet, lifestyle and other environmental factors.

Dow criticized the EPA for relying specifically on an epidemiological study from Columbia University that found that chlorpyrifos affected brain development in New York City children exposed in utero. The study's data was kept confidential by the university, prompting Dow and other industry groups to ask the EPA not to rely on the observations.

The company swiftly applauded the EPA decision.

“Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety,” spokesman David Sousa said in a statement.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/epa-pursuing-mindboggling-timeline-in-wotus-rewrite-154724>

Sources: trump admin aiming for new WOTUS rule by year's end

By Annie Snider 3/30/17, 5:01AM

The Trump administration is pressing EPA to replace the Obama administration's Waters of the U.S. rule by the end of this year, according to multiple sources with knowledge of the plan — a lightning-speed timeline that legal experts say could shortcut key steps and make the effort vulnerable in court.

EPA Administrator Scott Pruitt recently convened a meeting on the future of the WOTUS rule, where he told agency water staffers to have an initial rewrite ready by this summer, according to one source with knowledge of his instructions. Agency employees have been telling states, environmentalists and industry groups to expect things to move "on a very fast pace." The source called the expectation to issue a proposed rule within a few months "mind-boggling."

Pruitt's predecessors took a much more deliberate approach, knowing that any rule attempting to clarify the legal morass of Clean Water Act jurisdiction would almost certainly end up at Supreme Court.

The Obama administration spent years grappling with where to draw the lines, crafting a legal rationale, and building a mass of scientific and technical reports to back up their approach before ultimately proposing its rule in April 2014. EPA then took 14 months to collect and respond to more than one million public comments, meet with more than 400 outside groups, draft changes to the rule and shepherd it all through the interagency review process.

The timeline being mulled by the Trump administration would give agency staff just a few months to put the foundation of the rule in place. An EPA spokeswoman said only that "discussions are ongoing."

Part of the reason the Obama administration took so long is because it produced lengthy supporting documents, even though most were not mandated by law. Those included a 90-page regulatory impact analysis and an exhaustive scientific report and technical support document, both of which clocked in around 400 pages each.

Trying to finish a new rule this year means the Trump administration would have to skip most of those steps, potentially making its rule more vulnerable to being overturned in court, said Patrick Parenteau, a Vermont Law School professor.

“The more they start cutting corners and not going back through the same process they did to do the [Obama administration] rule, the greater risk they’re going to be overturned,” he said.

Making EPA’s job even more difficult is the fact that the agency is being asked to base its new rule on a potentially shaky legal interpretation.

The last time the Supreme Court weighed the limits of the Clean Water Act's jurisdiction was in the 2006 case *Rapanos v. United States*, where justices failed to reach a majority decision. The late Antonin Scalia led the court’s four conservative justices in a plurality opinion setting a restrictive test for waterways to fall under federal protection, while the court’s four liberal justices voted for broad federal jurisdiction. Justice Anthony Kennedy, the court's traditional swing vote, joined the conservative justices in their ruling, but he wrote his own, stand-alone opinion setting a broader test that would make streams and wetlands jurisdictional if they have a “significant nexus” to larger downstream waters.

None of the nine federal appeals courts that have weighed the issue have decided that Scalia's line of reasoning would stand on its own. But President Donald Trump directed EPA to look to Scalia's opinion in his executive order requesting a WOTUS rewrite, and sources familiar with instructions to agency staffers say they've been told to rely solely on Scalia's test.

Courts have generally ruled that Kennedy’s test is the one that must be followed, although a handful have concluded that if a waterway meets either the Kennedy or the Scalia test, it falls under federal power. The Obama administration wrote its rule to meet Kennedy’s test, and the George W. Bush administration had also focused on Kennedy in its 2008 guidance on the topic.

Legal experts generally argue that it will take some fancy footwork for the Trump administration to argue that Scalia's test should take precedence.

But Reed Hopper, an attorney for the Pacific Legal Foundation who has successfully argued the *Rapanos* case before the Supreme Court, said that rewriting the rule doesn't have to be that complicated.

"I think there isn't going to be much of a problem: Look at the act, see what it says, recognize that there are constitutional constraints," he said. He also pointed out that the Supreme Court has overturned lower courts on several recent wetlands cases, including one he argued last year in which the justices ruled that courts can review the federal government's jurisdictional determinations.

Reed argued that EPA could quickly rewrite WOTUS if it throws enough manpower into the effort.

But that could pose a challenge, since the Trump administration has been slow to staff up. Pruitt has only a small cadre of political allies at the agency so far, and key slots in the Office of Water and General Counsel's office are sitting empty. The Army Corps of Engineers, which will need to at least supply data for the rewrite effort, is likewise without a political leader.

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The Hill

<http://thehill.com/policy/energy-environment/326465-epa-head-wont-ban-controversial-pesticide>

EPA head won't ban controversial pesticide

By Timothy Cama 3/30/17 9:31 AM

The head of the Environmental Protection Agency (EPA) on Wednesday decided against banning the use of the pesticide chlorpyrifos on fruits and vegetables.

EPA Administrator Scott Pruitt's decision represents a course reversal from the Obama administration, which proposed the ban in 2015, based on its scientific findings of neurological harm from exposure to it.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a late Wednesday statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," he said.

Pruitt's decision matches what Dow Chemical Co., which sells the pesticide under the brand name Lorsban, sought in a January letter to the agency. Dow accused the Obama EPA of short-circuiting its scientific review process for pesticides, including in areas like transparency and peer review.

Farmers use chlorpyrifos to kill insects and some plant pests on numerous crops, including some meant for human consumption. It has been in use since 1965, but most household uses were phased out in 2001.

Research in recent years has linked the pesticide to nervous system and brain problems, including lowered brain function in some children exposed to it before birth.

The EPA under Obama proposed in 2015 to ban chlorpyrifos's use on food crops, responding to a petition and lawsuit from the Natural Resources Defense Council (NRDC) and other groups.

"With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains," a coalition wrote to the agency this year.

But Dow objected, as did agricultural interests.

"EPA's proposal appears to be a retreat from its statutory obligation that, when evaluating pesticides for registration, it balances the risk of those active ingredients against their benefits to farmers specifically, and to the public generally, when they do not pose an unreasonable risk to health or the environment," the American Farm Bureau Federation told the agency.

Groups that pushed for the ban slammed Pruitt's decision

"The Trump administration is putting the needs of chemical corporations before children's health," NRDC senior scientist Miriam Rotkin-Ellman said in a statement.

"Parents shouldn't have to worry that a dangerous chemical might be lurking in the fruits and

veggies they feed their kids,” she said. “We will hold EPA accountable to protecting the American people from industries that can do us grave harm. The health of our children depends on it.”

NRDC and its could ask the Court of Appeals for the Ninth Circuit, the court where it previously sued the EPA to force a decision, to review Pruitt’s final determination.

LA Times

<http://www.latimes.com/business/la-fi-pesticide-epa-201703230-story.html>

Trump administration reverses course on nerve-agent pesticide

By Geoffrey Mohan 3/30/17, 4:00AM

The U.S. Environmental Protection Agency on Wednesday reversed an Obama administration recommendation to ban a pesticide linked to nervous system damage in children.

Newly installed EPA administrator Scott Pruitt signed an order that would allow farmers to continue using chlorpyrifos, which is sprayed on more than a dozen crops, including tree nuts, soybeans, corn, wheat, apples and citrus.

The Obama administration had announced in 2015 that the agency would adopt a “zero tolerance” policy for residue of the chemical on food, a move that effectively would have ended its use.

“By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results,” Pruitt said of the decision.

Pruitt’s action came in response to complaints by the agricultural and chemical industries that the Obama administration had cut short a review of the scientific evidence about the chemical’s effects on humans. The administration was under pressure from an order by the U.S. 9th Circuit Court of Appeals to speed up its ruling on the safety of the chemical.

The court order sprang from lawsuits by the Pesticide Action Network and Natural Resources Defense Council, which had petitioned the EPA in 2007 to ban the chemical. Pruitt denied that petition Wednesday.

Kristin Schafer, policy director at Pesticide Action Network, accused EPA of caving to corporate pressure.

“The new administration’s agency ignored their own findings that all exposures to chlorpyrifos on foods, in drinking water, and from pesticide drift into schools, homes and playgrounds are unsafe,” Schafer said.

The U.S. Department of Agriculture praised Pruitt’s action.

“This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States,” said Sheryl Kunickis, director of the USDA’s Office of Pest Management Policy. “It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables.”

About 5 million to 10 million pounds of chlorpyrifos, manufactured by DowAgroSciences, are used annually on crops nationwide. The chemical is an organophosphate, a class of chemicals originally designed as a nerve agent weapon.

Chlorpyrifos has been banned from consumer products and residential use nationwide for more than 15 years. Several studies have suggested it can impair cognitive development in children. A UC Berkeley study found that 7-year-old children in the Salinas Valley who were exposed to high levels during pregnancy had slightly lower IQ scores than their peers. A Columbia University study showed similar effects at lower exposure.

In 2006, the EPA revised its tolerance levels for the chemical and limited the crops on which it can be applied.

In California, the Department of Pesticide Regulation restricted use of chlorpyrifos in 2015, requiring licensing, training and oversight by county agriculture commissions. It also tightened buffer zone requirements around fields where the chemical was applied, and banned its use near schools and other facilities when winds exceed 10 miles per hour.

Use of the chemical in California declined from a peak of more than 2 million pounds in 2005 to about 1.1 million in 2012, but rose to nearly 1.5 million pounds in 2013, the last year for which complete data were available, according to the state Department of Pesticide Regulation.

Environmental activists attribute the increase to the rise in almond production, which has been increasing rapidly in counties where the chemical is most heavily applied, according to the National Agricultural Statistics Service.

More than 500,000 pounds of the chemical were applied to crops in Kern and Fresno counties in 2013, by far the biggest users of the pesticide, according to the state Department of Pesticide Regulation.

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Trump's Climate Order Didn't Touch Several Obama-Era Programs

By David Schultz 3/30/17

The Trump administration rolled back many of its predecessor's signature climate change measures with an energy-focused executive order, but the order was notably silent on several Obama-era climate programs that don't affect the energy industry.

Trump's March 28 order either rescinded or began the process of rescinding numerous regulations on power plants, oil and gas drillers, coal miners and others in the energy sector.

But his executive order left untouched several other Obama-launched initiatives meant to combat climate change. These include measures that affect the chemicals, waste management, agriculture and aviation industries, and some of these measures impose significant costs on those industries.

The fact that Trump is willing to let these Obama-era measures stand—at least for now—indicates his White House may be taking a less dogmatic stance toward climate change than one would expect, given the many statements of climate skepticism that have come from administration officials and from the president himself.

The Trump administration did not respond on the record to a request for comment for this story.

Chemicals

The executive order leaves intact the Obama administration's ban on a type of refrigerant chemical called hydrofluorocarbons, or HFCs. These chemicals were targeted in Obama's 2013 Climate Action Plan because, while they are a small contributor to climate change, they are also highly potent greenhouse gasses that trap 1,000 times more heat in the atmosphere than the same amount of carbon dioxide.

The ban's exclusion from the executive order comes as little surprise, since just weeks earlier Trump administration attorneys went to court to defend it against a legal challenge from HFC manufacturers (*Mexichem Fluor Inc. v. EPA*, No. 15-01328 (D.C. Cir. 2/17/17)).

David Doniger, an attorney with the Natural Resources Defense Council, said Trump's defense of his predecessor's HFC ban betrays the White House's contradictory stance toward the issue of a warming planet.

“They seemed to draw a distinction: ‘Climate change is a hoax when it involves the energy industry, but not a hoax when it involves the chemicals industry,’” Doniger said at a March 22 D.C. Bar panel discussion.

Landfills

Though Trump's executive order took aim at a number of regulations on methane emissions, it didn't address a particular regulation on methane emissions from landfills that the Environmental Protection Agency finalized last year. The waste management industry is challenging this regulation in federal court, arguing that its emissions thresholds are too difficult to meet (*Nat'l Waste and Recycling Ass'n v. EPA*, No. 16-01371 (D.C. Cir. 10/27/16)).

The lead plaintiffs in this case said they didn't anticipate the Trump administration to pull back this EPA landfill rule in his executive order.

“There wasn't a big expectation on our part,” Anne Germain, a director with the National Waste and Recycling Association, told Bloomberg BNA. “The president is really trying to focus [deregulation efforts] on energy production and isn't targeting methane holistically.”

Aviation

Significantly, Trump's executive order did not instruct the EPA to rescind its 2009 finding that carbon dioxide is a pollutant, a landmark document that laid the basis for nearly all of the agency's climate regulations during the Obama era.

The order also did not nullify a much narrower EPA finding from last year on the pollution effects of greenhouse gas emissions from airplanes. This finding triggers a legal requirement that the EPA establish limits on airplane emissions.

The aviation industry has come out in favor of imposing these regulations on its own planes. It wants U.S. rules on greenhouse gases to be harmonized with soon-to-be-established international standards, which the industry will have to comply with regardless of what Trump's EPA does.

Agriculture

The executive order also gave no indication that Trump will put a halt to the work federal agencies have been doing on promoting biogas generation, another of the priorities listed in Obama's Climate Action Plan.

Since 2014, the EPA has been working with the Departments of Agriculture and Energy to help livestock farmers turn the waste from their animals into biogas fuel, rather than allowing it to decompose into climate-harming methane. A joint 2014 report from the agencies laid out a plan to promote this practice by allocating loans to farmers and grants to biogas researchers, among other measures.

Patrick Serfass, head of the trade group American Biogas Council, said his emerging industry was likely excluded from the executive order because of many other economic benefits to biogas generation, aside from reducing methane emissions.

“We don't have to talk about the climate benefits to make a really compelling point as to why it's important,” he told Bloomberg BNA. “We've stopped using our climate-related messages because the other ones are resonating more.”

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215035&vname=dennotallissues&wsn=49949500

Trump Administration Asks Court to Halt Clean Power Plan Review

By Andrew Harris and Jennifer A Dlouhy 3/30/17

President Donald Trump took yet another step toward dismantling his predecessor's climate change legacy, asking a federal appeals court halt its review of carbon-emission rules for power plants (West Virginia v. EPA, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Trump, who famously called climate change a hoax in a 2012 tweet, signed an executive order March 28 that starts unraveling a raft of rules and directives to combat climate change. That's now been followed by a bid to temporarily place on hold a 26-state suit challenging the centerpiece of President Barack Obama's environmental agenda—the Clean Power Plan—so the new administration can dismantle it ahead of a ruling on its legality.

The request is the strongest sign yet that the U.S. may back away from Obama's commitment to a 197-nation climate change accord, though the White House hasn't taken that step.

Asking the court to halt its review is the easy part. The next steps could be more difficult. Since the rule was finalized, the new administration can't kill it out right and instead must go through the rule-making process again to undo it, said Villanova University law professor Todd Aagaard. The Trump administration is arguing that the court shouldn't waste resources deciding the case, when the EPA plans to revise or undo the rule anyway.

“The case is not moot simply because EPA is considering undoing the Clean Power Plan,” he said. “It won't be moot unless and until EPA actually finalizes a new rule to undo the plan.”

The Environmental Protection Agency will need about a year to administratively remove the CPP from the federal regulatory landscape, while justifying that reversal, allowing for public comment and still meeting its Clean Air Act obligations. The result will almost certainly be challenged by the same green groups and states that initially defended the rule.

“The EPA cannot simply dismantle the Clean Power Plan and leave nothing in its place,” New York Attorney General Eric Schneiderman, a Democrat, said Tuesday on behalf of 18 states that intervened in the court case in support of the rule. “This is not a situation where they can just junk the regulations.”

The Obama rule was designed to limit polluting coal-fired power plants in favor of green energy, such as wind and solar. Trump's EPA Administrator, Scott Pruitt, has asked the court, which heard arguments over the plan's merits in September, to put the case on hold while his agency and the administration review it.

“The Clean Power Plan is under close scrutiny by the EPA, and the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions,” the EPA said in its court filing late Tuesday.

The Republican Pruitt, while serving as Oklahoma attorney general, was one of the first officials who sued in October 2015 to strike down the former president's plan to reduce carbon emissions

to 32 percent below what they were in 2005. While 27 states had been part of that effort, North Carolina—whose new governor and attorney general are both Democrats—dropped out of the case.

Not Without Risk

New York, 17 other states and the District of Columbia intervened in that suit in the plan's defense.

The Pruitt-led EPA is essentially telling the court not to bother deciding the case because the plan won't go into effect. Judges don't have to agree. Schneiderman has promised to press for a ruling, a move that is not without risk for the plan's supporters.

If the Clean Power Plan is ultimately upheld by the courts, the Trump administration would have to acknowledge that it could stick with the plan but, as a matter of policy discretion, decided not to do so, Villanova's Aagaard said.

“Of course, if either the D.C. Circuit or Supreme Court were to hold that the Clean Power Plan is invalid, EPA wouldn't even have to undertake a rule-making to kill the plan -- it would already be dead,” he said.

The plan is “legally valid,” Schneiderman said, and it's “extraordinarily unusual” for one party to say it doesn't want a ruling so far along in the case.

Roiled Industry

The Obama rule roiled the energy industry when it was unveiled in 2015. The plan dictates specific carbon-cutting targets based on the amount of greenhouse gases states released while generating electricity in 2012. It followed the EPA's landmark 2009 determination that greenhouse-gas emissions endanger the public's health and welfare.

Pruitt, who has also discounted the role of carbon dioxide as the main driver for climate change, helped lead the charge for states opposing the plan in arguing that its goal to shift power generation away from coal and toward cleaner sources would force the creation of a “new energy economy.”

First to sue, though, was West Virginia Attorney General Patrick Morrisey, who hailed Trump's decision to roll back the regulations. In a phone interview, Morrisey called the plan “one of the most egregious and unlawful regulations that we've seen in many many years.”

Trump campaigned on a vow to bring back coal jobs. He told a crowd in Kentucky on March 20 that the administration will turn the EPA “from a job killer into a job creator.”

The Justice Department late March 28 also asked the D.C. Circuit to halt progress in litigation over EPA's carbon standards for new power plants, which established a requirement that any new coal-fired power plant be equipped with carbon capture technology (North Dakota v. EPA, D.C.

Cir., No. 15-1381, motion filed 3/28/17).

The administration's request comes about three weeks before the court is scheduled to hear oral arguments over the regulation on new power plants. The Clean Air Act required the EPA to establish standards for new power plants as a prerequisite for regulating existing plants through the Clean Power Plan.

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House Passes Bill Requiring Science in EPA Rules to Be Public

By Rachel Leven 3/30/17

A House-passed bill would require science and data used in EPA regulations or assessments to be made public.

The 228-194 vote March 29 was an unsurprising outcome, given passage of a similar bill by a 241-175 House vote last session.

Supporters of the Honest and Open New EPA Science Treatment Act of 2017 (H.R. 1430), sponsored by House Science, Space, and Technology Committee Chairman Lamar Smith (R-Texas), said it would provide transparency into science used in certain Environmental Protection Agency actions. Critics said the bill would bog down further an already slow regulatory process and block the agency from using important science in its decisions.

The bill now heads to the Senate, where new Environment and Public Works Committee Chairman John Barrasso (R-Wyo.) has indicated an openness to addressing the issue, a Barrasso spokesman said. The committee never held a hearing on last session's version of the bill, the Secret Science Reform Act of 2015 (H.R. 1030).

The measure, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, is supported by groups including the American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The House Science, Space and Technology Committee approved H.R. 1430 March 9 by a 17-12 vote along party lines. The Congressional Budget Office hasn't released a cost estimate related to the bill.

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<https://www.bloomberg.com/politics/articles/2017-03-29/volkswagen-says-it-has-epa-approval-to-sell-repaired-diesels>

Volkswagen Says It Has EPA Approval to Sell Repaired Diesels

By Ryan Beene 3/30/17 3:30 AM

Volkswagen AG will soon do what's been impossible since its emissions crisis began: sell diesel-powered cars in the U.S.

The company received approval from the Environmental Protection Agency for its dealers to sell 2015 model year diesels after updating the vehicles' emissions software, VW Group of America spokeswoman Jeannine Ginivan said.

The software update is part of a required emissions repair approved by the EPA and California Air Resources Board. The repair will also include changes to diesel engine hardware, but dealers do not have to wait until the repair parts become available early next year, Ginivan said.

"We are still finalizing the details of this program and will provide more information on its implementation at the appropriate time," Ginivan said in a statement.

Volkswagen admitted 18 months ago to rigging nearly 500,000 diesel cars to pass U.S. emissions tests. The Wolfsburg, Germany based company froze sales of new and certified used diesels in the U.S. while it worked with regulators on an approved fix. The company has put aside \$24 billion (22.6 billion euros) to cover costs and fines related to the scandal.

The shares were little changed at 136.50 euros at 9:19 a.m. in Frankfurt trading, bringing the decline since the scandal broke in September 2015 to about 16 percent.

Significant Milestone

Reviving diesel sales marks a significant milestone in VW's efforts to recover from the scandal and rebuild its relationship with environmental regulators. It also returns a key product to dealer showrooms that attracted a cult-like customer base and accounted for about 20 percent of the VW brand's pre-scandal sales.

Yet it's a mostly symbolic step. The sales approval only applies to about 67,000 diesels from the 2015 model, about 12,000 of which are currently in dealer inventory, Ginivan said.

An EPA spokeswoman didn't immediately return messages seeking comment.

Volkswagen has also said no new diesel models will be offered in the U.S. at least through model year 2018. The company is moving aggressively toward electric vehicles, signaling a diminishing role for diesel engines in the company's portfolio, especially in the U.S.

The program will also eventually include used 2015 diesels the company has repurchased from owners through the 2016 settlement with U.S. regulators and owners, Ginivan said. Some customers have elected to keep their cars and receive restitution and an emissions repair under the terms of its \$10 billion buyback.

While diesel engines are more fuel efficient than their gasoline counterparts and are found in about half of new passenger cars sold in Europe in part due to tax breaks, they never fully caught on in the U.S., accounting for less than three percent of deliveries.

E&E News

<http://www.eenews.net/climatewire/2017/03/30/stories/1060052328>

On balance, the world wants Trump to stay

By Jean Chemnick 3/30/17

The world is prepared to put up with quite a lot to keep the United States in the Paris climate deal.

If White House officials who want the United States to remain part of the 2015 agreement prevail in what appears to be an ongoing tug of war within the administration, the trade-off is likely to be weaker emissions commitments and no new climate aid for the remainder of President Trump's term. Even then, the administration could make new demands in forthcoming negotiations that could complicate the delicate deal among nearly 200 nations.

Still, most climate diplomats and environmentalist observers say they would rather deal with a Trump team than lose the United States altogether.

"I don't think it would be seen as an advantage to have the United States out, if for no other reason than that countries will be very hopeful that this is a time-limited bump in the road," said former State Department Special Envoy for Climate Change Todd Stern. "And it is a lot more useful to have the U.S. still in the regime, so that when things eventually turn around in Washington, then the U.S. is there, rather than you've got to go through the whole aggravation of them not being there."

Trump this week essentially hollowed out the U.S. Paris pledge when he signed an executive order rolling back Obama-era greenhouse gas regulations that formed the basis of America's international commitments. A new target, or "nationally determined contribution" (NDC), to Paris would likely accompany any decision to stay in the deal, and analysts believe it will be an emissions range consistent with a business-as-usual scenario.

The next weeks are expected to settle whether Trump will stay or go. But a State Department team will attend the next midyear climate talks in Bonn, Germany, a first foray that might shed some light on whether the new administration would assume a role of benign neglect or of outright obstruction if it stays. Even if Trump does move to withdraw soon, the process will take four years, during which time his team could still attend talks and play an active, if diminished, role in setting the rules of the road.

Battle lines within and around the administration are not clearly drawn. Over the weekend, U.S. EPA Administrator Scott Pruitt dismissed Paris as a "bad deal" in an interview on ABC's "This Week," while EPA transition team leader Myron Ebell attacked Secretary of State Rex Tillerson as a "swamp creature" in remarks at a Washington conference for saying during his Senate confirmation process back in January that the United States should maintain a "seat at the table" on Paris.

It's unclear what role, if any, Tillerson is playing in this decision, which will ultimately be made by Trump himself, either with the usual input from advisers or without it. But Trump's daughter Ivanka Trump and son-in-law Jared Kushner were instrumental in slashing language from yesterday's executive order rolling back domestic climate regulations that would have set the wheels in motion for a withdrawal from Paris. And several members of Trump's National Security Council argue for remaining in the deal for pragmatic reasons. Senior adviser Steve Bannon does not.

Still, Stern said he assumes that if the United States remains in the deal, it will not try to ruin it from within.

"I don't think that they're going to diabolically say, 'Let's stay in so we can throw bombs,'" he said.

"A seat at the table doesn't generally mean a seat at the table with a grenade in your hand," Stern added. Still, he acknowledged, if the new negotiating team were extraordinarily unconstructive, that might prompt some partners to wish it had just made an exit.

Should the U.S. help write the rulebook?

But a future administration might find it complicated to re-enter Paris, while an exit from the underlying U.N. Framework Convention on Climate Change (UNFCCC) would likely mean the United States would have to stay out of the deal for good. It would be very difficult for a future administration to wrangle 60 Senate votes in the future to rejoin the treaty.

And a regime without the United States is likely to be less effective in the long run.

"I can't envision a world in which it would be better for the U.S. to pull out in terms of keeping the agreement together or keeping others on board," said Kate Larsen, climate director of the Rhodium Group and a former State Department negotiator during both the George W. Bush and Obama administrations.

"If the U.S. were to pull out, you would have to believe that at some point, later in the future, when a more sympathetic president is in place, that we'd be able to either rejoin the agreement or negotiate a whole new one," she added.

Paris was the culmination of more than two decades of negotiations that eventually included 196 parties, and that included many setbacks and false starts along the way that threatened to capsize the process.

The United States was frequently a pariah in the process, but usually for arguing, across Democratic and Republican administrations alike, for provisions on transparency, common

responsibility across developed and developing countries, and the avoidance of binding language that would require Senate approval for the United States to join.

If the United States were to suddenly withdraw from the process, Larsen said, "the voices for including elements that are problematic for the U.S. get stronger and ultimately win out."

If the United States is not active over the coming two years as the Paris rulebook is being negotiated and written, the next administration could return to a process that has become difficult to join.

Stern noted that the Paris accord made substantial new progress in breaking down past barriers between what the process demanded of developed and developing participants and on transparency — gains he said the United States should continue to guard in the implementation phase.

World waits, strategizes

Climate diplomats and negotiators approached for this story were generally reticent to speak on the record about the future of U.S. participation in Paris. Some worried about being seen to weigh in on domestic U.S. politics, while others feared weighting the scales toward a U.S. exit.

Officials from Europe and elsewhere say they're still assessing who their counterparts are within the Trump White House and State Department.

"It's not under discussion with key climate diplomats," said Christoph Bals of Germanwatch. "They have lots of problems at the moment to find a person in the U.S. government who has a mandate to negotiate this with them. And they are absolutely frustrated in our chancellery that they don't know who the right person [is] to negotiate those kinds of things."

Maros Sefcovic, vice president for the compact's Energy Union, did meet with White House officials earlier in the month, and German Foreign Minister Sigmar Gabriel met with Tillerson and Vice President Mike Pence in February to discuss the agenda his country has set for its presidency of the Group of 20 nations this year, which includes climate change.

German Chancellor Angela Merkel is said to have a personal stake in a strong climate outcome for the G-20, but has so far avoided putting Trump on the spot. She raised climate change during a closed-door lunch with the president during her visit to Washington earlier this month, but did not make a public statement about it. And the Germans watched as Treasury Secretary Steven Mnuchin stripped long-established language from this year's financial ministers' communiqué for the G-20 that called for the removal of trade barriers, while he banded together with Saudi Arabia's minister to cancel all reference to climate finance. Greens hope climate aid will reappear at the leader-level summit in July, together with a reaffirmation of the Paris deal, but Maeve McLynn of CAN Europe said Mnuchin's heavy-handedness did not bode well for how the United States might perform in upcoming climate talks.

"This is what I'm kind of fearing, that the U.S. will come in and not be willing to compromise on certain things," she said. Both the G-20 and the climate talks operate on consensus, and the United States plays an outsized role.

McLynn said that Europeans are dealing with the uncertainty in Washington by engaging more

deeply with other countries. The 28-nation bloc could announce new bilateral efforts with China, Latin America and other nations at summits later this year, and is weighing whether to increase its commitment to climate finance in response to a retreating United States. Outreach to Canada and Mexico is also part of the strategy.

"The message we're getting is, 'Let's not focus too much on Trump and the Trump administration, but then let's start building and strengthening the alliances with the countries around the U.S.,'" said McLynn.

Foreign officials are not offering direct criticism so far of Trump's domestic climate moves, though they seem to be holding fire until the Paris announcement is out.

Jake Schmidt, international climate change director for the Natural Resources Defense Council, said Europe, small island states and other members of the so-called high ambition coalition would be unlikely to accept a weaker NDC without comment.

"Pretending like there's no blowback to changing how you act on climate change is a bit delusional," he said, predicting that a change in Paris commitment would spark a diplomatic pushback.

Dennis Clare, who has negotiated on behalf of small island states within the UNFCCC process, said a major emitter like the United States would set a dangerous precedent if it were to pare back its already-insufficient NDC, though an exit from the deal would "go one step further."

"Most countries would surely lament any diminishment of the collective global response to climate change and the increased human suffering that would cause," he said.

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052317>

Democrats press Pruitt to address conflict of interest

By Ariel Wittenberg 3/20/17

U.S. EPA Administrator Scott Pruitt hasn't responded to requests from Senate Democrats that he address an apparent conflict of interest caused by President Trump's executive order that directs the agency to review and possibly rescind the Clean Water Rule.

Environmental and Public Works Committee Democrats asked him last week to confirm that he has either recused himself from actions related to the regulation or received permission from ethics officials to remain involved in the rule review (*Greenwire*, March 21).

The letter requested a response "by no later than March 29." A Democratic aide said neither Pruitt nor EPA has responded.

EPA didn't respond to repeated requests for comment for this story.

At issue is a lawsuit Pruitt filed as Oklahoma attorney general against the Obama administration's Clean Water Rule.

The regulation, also known as the Waters of the U.S. rule, or WOTUS, aims to clarify the reach of federal regulations over wetlands and waterways under the Clean Water Act. It was strongly opposed by farmers, land developers and energy companies that said it amounted to federal overreach.

Trump's executive order directs EPA to rescind the regulation and to "promptly notify the Attorney General of the pending review" so that the Department of Justice can decide how to proceed on lawsuits filed against the litigation.

Two days after that order was signed, Pruitt himself signed a notice indicating EPA had begun its review of the regulation.

But Senate Democrats say the executive order creates a conflict of interest for Pruitt because it includes "explicit direction" regarding the lawsuit he filed as Oklahoma attorney general.

Pruitt has signed an ethics agreement stating he would seek authorization from EPA's designated ethics official to "personally and substantially" participate in "particular matters involving the specific parties in which I know the State of Oklahoma is a party or represents a party."

Pruitt also told the committee during his confirmation hearing he would recuse himself from matters related to litigation he filed as attorney general unless he had permission from ethics officials.

Senate Democrats are asking for proof Pruitt has done that.

"Although we all continue to believe," they wrote, "that you should have made more extensive recusals than the ones you committed to, the specific language in section 2(c) of the Order should have triggered even the more limited recusal policy to which you have already and repeatedly agreed."

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052312>

House OKs 'secret science' bill; advisory board bill up today

By Sean Reilly 3/30/17

The House has again passed legislation that would bar U.S. EPA from pursuing new regulations based on science that is not "transparent or reproducible," brushing aside critics' warnings that it would hamstring the agency's ability to protect public health and the environment.

The bill, H.R. 1430, won approval late yesterday by a 228-194 margin after a perfunctory one-

hour debate under a closed rule that barred amendments. Three Democrats voted yes; seven Republicans were opposed.

The House approved similar measures titled the "Secret Science Reform Act" in 2014 and 2015. Both then died in the Senate following Obama administration veto threats. Although the latest version, dubbed the "Honest and Open New EPA Science Treatment Act," is certain to play better with President Trump, it still faces uneven odds in the Senate, where 60 votes are needed to move legislation of any significance.

Potentially raising the bar further is a Congressional Budget Office forecast released after yesterday's vote that estimated that annual implementation costs over the next few years could range from a few million dollars to around \$100 million.

The bill, sponsored by House Science, Space and Technology Chairman Lamar Smith (R-Texas), would require online availability of the research data used in studies undergirding new regulations as a means of allowing independent analysis. "Our goal is to help advance not just any science, but the best science," Smith said during yesterday's floor debate.

As they have in the past, Smith and other Republicans portrayed the bill as an open-government measure intended to shed light on the research behind EPA rules that can sometimes carry a considerable economic wallop.

"It's like they have a little black box over there; they don't ever let anyone else look into it," said Rep. Brian Babin (R-Texas). "Show us your data."

Critics, however, see the legislation's purported purpose as anything but honest. Instead, they have argued, it would make it easier for industry to bring lawsuits against new rules, while making it harder for EPA to tap important research because the results of studies based on large data sets aren't easily reproducible.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee's ranking member, described the bill as even worse than its two predecessors and said it would stifle EPA's ability to protect public health. "Unfortunately in this case," Johnson said, "the third time is not the charm."

Democrats also questioned the value of a newly added exemption for personally identifiable and sensitive business information from the internet posting requirements, given that the data could still be obtained through a confidentiality agreement with the EPA administrator.

An even bigger question mark hovers over the bill's potential cost.

A 2015 Congressional Budget Office analysis of a similar measure pegged the annual price tag for the first couple of years at \$250 million. During yesterday's debate, Smith said that reading was a misinterpretation of the implementation requirements.

But the CBO score for H.R. 1430, released after yesterday's vote, signaled that the expense for EPA could still be substantial, even as the agency faces a 31 percent cut under Trump's proposed budget for next year.

Although the final tab would hinge in part on how much money EPA chooses to invest in "infrastructure" to make researchers' data more widely available, the overall amount could range

from several million dollars per year to more than \$100 million per year "to ensure that data and other information underlying studies are publicly available in a format sufficient to allow others to substantially reproduce the results," the CBO analysis said. Based on the "minimal" approach that EPA officials say they plan to take, however, the budget office pegged total spending from 2018 through 2022 at \$5 million.

Earlier this week, Smith had predicted the implementation cost would be "minuscule" (E&E Daily, March 28). His legislation would cap EPA's annual spending at \$1 million, or roughly in line with what agency officials told CBO they would use.

Smith's bill is traveling in tandem with H.R. 1431, a separate measure by Rep. Frank Lucas (R-Okla.) to revamp membership requirements for EPA's Science Advisory Board. Earlier in the day, the House cleared the latter bill on a 232-188 vote for debate this morning. It will probably pass by lunchtime.

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/30/new-trailer-for-al-gores-inconvenient-truth-shows-president-trump-as-climate-change-villain/?utm_term=.775755b36688

New trailer for Al Gore's 'Inconvenient Truth' sequel shows President Trump as climate change villain

By Ben Guarino 3/30/17, 3:01AM

The trailer for "An Inconvenient Sequel: Truth to Power," the second film in Al Gore's franchise of climate change documentaries, depicts President Trump as an antagonist. The clip that Gore shared via Twitter on Wednesday shows the president at an airport rally held last April in Rochester, N.Y., where then-candidate Trump mocks the climate science consensus.

"It's supposed to be 70 degrees today," Trump says. "It's freezing here! Speaking of global warming, where is — we need some global warming!"

As for Gore, the trailer vindicates the former vice president's climate change predictions. Gore says that the most criticized part of 2006's "Inconvenient Truth," which won a documentary feature Oscar in 2007, was the notion that the World Trade Center Memorial could flood from rising sea levels and stronger storm surges. Smash cut to 2012 — "Hurricane Sandy slammed into New York City last night, flooding the World Trade Center site," a newscaster says in the trailer.

The trailer jumps from the devastation wreaked by extreme weather events to shots of green energy infrastructure and Gore pumping the hand of Canadian Prime Minister Justin Trudeau.

And then, halfway through, the screen goes to black. Enter Trump.

The trailer showcases another Trump campaign rally speech. "It's time to put America first," he says. "That includes the promise to cancel billions in climate change spending."

Trump's statements have frequently missed the mark on climate change. In a December interview with Fox News, Trump said he was "open-minded" on the subject. But his other

stances have veered from conspiracy — Trump infamously called global warming a Chinese hoax, in a Twitter post that he later shrugged off as a joke — to skepticism. He told The Washington Post editorial board in March 2016 that he was “not a great believer in man-made climate change.”

At least one of his businesses, however, acknowledges the threat posed by rising oceans; the Trump International Golf Links Ireland cited global warming in its 2016 application seeking a permit for a protective sea wall.

Gore has frequently demurred from attacking Trump’s climate change views. In fact, he characterized a December meeting with Trump at Trump Tower in Manhattan as constructive. “I had a lengthy and very productive session with the president-elect. It was a sincere search for areas of common ground,” Gore said of his 90-minute lunch meeting, as The Washington Post reported at the time. “I had a meeting beforehand with Ivanka Trump. The bulk of the time was with the president-elect, Donald Trump. I found it an extremely interesting conversation, and to be continued, and I’m just going to leave it at that.”

When “An Inconvenient Sequel: Truth to Power” debuted at the 2017 Sundance Film Festival in January, Variety commented on the fact that Gore did not mention Trump by name. Gore told the Sundance crowd only that, in the realm of climate change setbacks, “now we have another,” as Variety reported. Gore also opposed Trump’s decision to appoint Scott Pruitt, a critic of climate change science, to head the Environmental Protection Agency.

Al Gore meets with Donald Trump

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation “extremely interesting.” (The Washington Post)

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation “extremely interesting.”
Former vice president Al Gore speaks to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York. (Photo: AP/The Washington Post)

In mid-March, Gore expressed optimism that Trump would not withdraw the U.S. from the 2015 Paris climate accord, an agreement in which the country would curb greenhouse gas emissions. Trump has wavered between a public declaration to “cancel” the agreement and saying he had an “open mind” on pulling out.

On the same day that Gore tweeted the new trailer, the House Science Committee held a climate change panel thick with political theater, as The Post reported, but scant by way of practical solutions. The day prior, Trump signed an executive order to boost the coal industry that also allows federal officials to disregard a previous requirement to consider climate change during decision-making processes.

Washington Post

https://www.washingtonpost.com/news/fact-checker/wp/2017/03/30/the-white-houses-claim-that-the-carbon-emissions-rule-could-cost-up-to-39-billion-a-year/?utm_term=.947656cfb127

The White House's claim that the carbon emissions rule 'could cost up to \$39 billion a year'

By Michelle Ye Hee Lee 3/30/17, 3:00AM

"The previous administration's Clean Power Plan could cost up to \$39 billion a year ... according to NERA Economic Consulting."

–White House fact sheet, March 28, 2017

President Trump has started rolling back Obama-era environmental protections, including directing federal regulators to rewrite federal rules to reduce carbon emissions.

The Clean Power Plan, a flagship environmental regulatory rule of the Obama administration, proposes to cut carbon emissions from existing power plants 30 percent below 2005 levels by 2030. It has been placed on hold while under litigation.

Proponents of the rule say it will improve public health and the United States would set an example for other countries to curb carbon emissions. Opponents say the plan will have minimal impact on the environment while driving up costs for consumers. The Fact Checker obviously takes no position on the rule.

A fact sheet about the March 28 executive order on Obama-era climate protections estimated the cost of the Clean Power Plan at up to \$39 billion. How accurate is this estimate? Who exactly is NERA Economic Consulting? And why isn't the White House using estimates by the Energy Information Administration (EIA) or the Environmental Protection Agency?

The Facts

Studies on the cost impact of the rule are built on different sets of assumptions, making it hard to make apples-to-apples comparisons. These studies compare how the energy industry and consumers would be affected in the absence of the new carbon emissions rule.

States have wide latitude in complying with the federal rule. Costs can vary depending on state, regional or local policymakers' decisions. Emissions and power plants can cross state boundaries, so states can coordinate with each other to lower costs.

There are assumptions made about the types of actions states will take after the rule takes effect, and what role renewables and natural gas energy will play. That means there are a lot of unknowns in cost estimates. That's an important caveat.

The NERA Economic Consulting's November 2015 study that the White House cites is commissioned by the American Coalition for Clean Coal Electricity, which opposes the Clean Power Plan. The Fact Checker always warns readers to be skeptical of industry-funded research. The \$39 billion is the high end of the \$29 billion-to-\$39 billion range of potential costs on the U.S. fossil-energy sector, under one method of compliance in the emissions rule.

Critics of the study say there are key assumptions that inflate costs.

It makes conservative baseline calculations about the impact of renewable energy policies, said David G. Victor, director of the Laboratory on International Law and Regulation at University of

California-San Diego. Those policies would reduce the amount of emissions even before any costs of the Clean Power Plan are incurred. NERA Economic Consulting said that the cost of renewables do not actually have a major effect on its estimates of the rule's costs.

The study relies on outdated cost figures for renewable energy and energy efficiency, according to the National Resources Defense Council, which is critical of this study. Its modeling is based on figures published by the EIA in its 2015 report, which "severely underestimates renewable growth and overestimates costs of new renewable generation," according to the environmental group, which supports the Clean Power Plan.

The study also makes different assumptions about allocations of allowance costs for the electricity companies. This may have led to higher electricity price increases compared to the assumptions in other studies, including one by the EIA. However, EIA's study is not an apples-to-apples comparison to the one by NERA Economic Consulting.

Clean energy advocates say the study ignores long-term benefits of energy efficiency programs, and that the rule could even lead to people saving money. The EPA and EIA fall somewhere in between those advocates and the study by NERA Economic Consulting; those agencies estimate that electricity prices would rise slightly at first but fall later, according to E&E News.

The EPA estimates that by 2030, the benefits of the rule (\$34 billion to \$54 billion) will outweigh the costs of complying with new regulations (\$8 billion).

The White House did not respond to our request for comment.

The Pinocchio Test

The White House used a statistic by an industry-backed study to claim that the Clean Power Plan could cost "up to \$39 billion a year." While this wording indicates that it's the highest end of the spectrum of costs, it creates a misleading impression that this is a definitive cost.

In reality, there are too many unknowns to cite a statistic like this with no context. The study the White House cites is based on a series of assumptions that are not comparable to ones made by the EIA, a credible government agency of career statisticians and researchers crunching data. We know the new White House isn't a fan of government statistics produced under the previous administration, but eventually, the administration won't be able to just rely on industry estimates and claims.

Huffington Post

http://www.huffingtonpost.com/entry/heartland-institute-climate-pack_us_58db4c63e4b05463706323d4

Climate Change-Deniers 'Spam' Thousands Of Teachers With Anti Global Warming Packages

By Nick Visser 3/30/17, 7:15AM

One of America's most prominent climate-denying groups, galvanized by the Trump administration listening to their claims, has set its sights on a new target: teachers.

The Heartland Institute, a conservative think tank that's become one of the loudest voices when it comes to climate denial, has sent more than 25,000 science teachers across the country a package of material it hopes they'll use in the classroom, according to a report from PBS Frontline.

Alongside a note from Lennie Jarratt, the group's project manager for transforming education, the package contains a book called *Why Scientists Disagree About Global Warming* and a 10-minute video about using their guidance.

"I'm writing to ask you to consider the possibility that the science in fact is not 'settled,'" Jarratt says in the memo. "If that's the case, then students would be better served by letting them know a vibrant debate is taking place among scientists on how big the human impact on climate is, and whether or not we should be worried about it."

However, there's near universal consensus among climate researchers that the planet is warming — rapidly — and human-induced greenhouse gas emissions are the primary cause. Earth experienced its hottest year on record in 2016, and officials have warned we're running out of time to address the threat of climate change.

Jim Lakely, the Heartland Institute's director of communications, confirmed thousands of copies of the group's book have been sent out, and more are yet to come.

"The number put out by PBS Frontline might be low before it's all done. We'll see," he said in an email. "We're mailing out the material because the science is not 'settled' when it comes to what are the causes and consequences of climate change."

The packages have already drawn swift rebuke.

"It's not science, but it's dressed up to look like science," Ann Reid, the executive director of the National Center for Science Education told Frontline. "It's clearly intended to confuse teachers."

The National Council for Special Education published survey findings this month that 75 percent of public science educators devote time to teaching about climate change. But around 30 percent of the 1,500 teachers surveyed cast doubt on the cause, disputing scientific consensus about the phenomenon.

Some teachers expressed their dismay on Twitter at receiving the Heartland Institute packages:

@Matthewrcover: Received this junk in my university mailbox today. Thanks but no thanks
#HeartlandInstitute

@sustainteach: After teaching about #climatechange all day, it was kind that the Heartland Institute, an organization funded by petroleum, sent me this.

@SanRaider25: Oh look, the Heartland Institute sent me a care package. And they want my feedback. #science #ActOnClimate

@CityLightsUF: The Heartland Institute is spamming my workplace with b*****t.

Heartland has been riding high since the election of President Donald Trump, a who's called climate change a hoax invented by the Chinese. The group hosted its 12th annual conference on climate denial this month. The event drew pro-Trump billionaire Robert Mercer and his daughter Rebekah Mercer, along with Myron Ebell, the man in charge of the Trump campaign's transition at the Environmental Protection Agency.

Lakely said the group has been “meeting a demand” with the packages and that it’s been “contacted by many teachers who’ve asked us for science-based materials that will help them tell their students the truth.”

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The Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump's EPA Won't Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17 8:33 AM

President Donald Trump's Environmental Protection Agency (EPA) rejected environmentalists' demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA's own analysis found that "there do not appear to be risks from exposure to chlorpyrifos in food." The agency's own website says chlorpyrifos is safe for humans in "standard" amounts.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a press statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA's attempts to ban the pesticide.

"Dow AgroSciences supports U.S. Environmental Protection Agency's (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in a statement. "Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops."

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled "Protect Our Children's Brains."

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn't completed its assessment of the pesticide's effects on drinking water and that "certain

science issues” regarding chlorpyrifos are “unresolved.”

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, “the risks of pesticides in the diet are remote, long-term, and theoretical, and there is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

New York Times

<https://www.nytimes.com/2017/03/29/us/politics/epa-insecticide-chlorpyrifos.html>

E.P.A. Chief, Rejecting Agency’s Science, Chooses Not to Ban Insecticide

By Eric Lipton 3/29/17

WASHINGTON — Scott Pruitt, the head of the Environmental Protection Agency, moved late on Wednesday to reject the scientific conclusion of the agency’s own chemical safety experts who under the Obama administration recommended that one of the nation’s most widely used insecticides be permanently banned at farms nationwide because of the harm it potentially causes children and farm workers.

The ruling by Mr. Pruitt, in one of his first formal actions as the nation’s top environmental official, rejected a petition filed a decade ago by two environmental groups that had asked that the agency ban all uses of chlorpyrifos. The chemical was banned in 2000 for use in most household settings, but still today is used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples.

Late last year, and based in part on research conducted at Columbia University, E.P.A.

scientists concluded that exposure to the chemical that has been in use since 1965 was potentially causing significant health consequences. They included learning and memory declines, particularly among farm workers and young children who may be exposed through drinking water and other sources.

But Dow Chemical, which makes the product, along with farm groups that use it, had argued that the science demonstrating that chlorpyrifos caused such harm is inconclusive — especially when properly used to kill crop-spoiling insects.

An E.P.A. scientific review panel made up of academic experts last July also had raised questions about some of the conclusions the chemical safety staff had reached. That led the staff to revise the way it had justified its findings of harm, although the agency employees as of late last year still concluded that the chemical should be banned.

Mr. Pruitt, in an announcement issued Wednesday night, said the agency needed to study the science more.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Mr. Pruitt said in his statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

The United States Department of Agriculture, which works close with the nation’s farmers, supported Mr. Pruitt’s action.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation,” Sheryl Kunickis, director of the U.S.D.A. Office of Pest Management Policy, said in a statement Wednesday.

Dow Agrosciences, the division that sells the product, also praised the ruling, calling it in a statement “the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops.”

But Jim Jones, who ran the chemical safety unit at the E.P.A. for five years, and spent more than 20 years working there until he left the agency in January when President Trump took office, said he was disappointed by Mr. Pruitt’s action.

“They are ignoring the science that is pretty solid,” Mr. Jones said, adding that he believed the ruling would put farm workers and exposed children at unnecessary risk.

The ruling is, in some ways, more consequential than the higher profile move by Mr. Trump on Tuesday to order the start of rolling back Obama administration rules related to coal-burning power plants and climate change.

In rejecting the pesticide ban, Mr. Pruitt took what is known as a “final agency action” on the question of the safety and use of chlorpyrifos, suggesting that the matter would not likely be revisited until 2022, the next time the E.P.A. is formally required to re-evaluate the safety of the pesticide.

Mr. Pruitt's move was immediately condemned by environmental groups, which said it showed that the Trump administration cared more about catering to the demands of major corporate players, like Dow Chemical, than the health and safety of families nationwide.

"We have a law that requires the E.P.A. to ban pesticides that it cannot determine are safe, and the E.P.A. has repeatedly said this pesticide is not safe," said Patti Goldman, managing attorney at Earthjustice, a San Francisco-based environmental group that serves as the legal team for the Natural Resources Defense Council and the Pesticide Action Network of North America, which filed the petition in 2007 to ban the product.

The agency had been under court order to issue a ruling on the petition by Friday. The environmental groups intend to return to the Ninth Circuit Court of Appeals in San Francisco to ask judges to order the agency to "take action to protect children from this pesticide" Ms. Goldman said on Wednesday.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/29/trump-epa-declines-to-ban-pesticide-that-obama-had-proposed-outlawing/?utm_term=.f43b3a7e2977

Trump EPA declines to ban pesticide that Obama had proposed outlawing

By Brady Dennis 3/29/17, 5:20PM

The new head of the Environmental Protection Agency refused Wednesday to ban a commonly used pesticide that the Obama administration had sought to outlaw based on mounting concerns about its risks to human health.

The chemical compound chlorpyrifos, also known as Lorsban, has been used by farmers for more than a half-century to kill pests on crops including broccoli, strawberries and citrus. The EPA banned its spraying indoors to combat household bugs more than a decade ago. But only in recent years did the agency seek to ban its use in agriculture, after mounting scientific evidence that prenatal exposure can pose risks to fetal brain and nervous system development.

Under President Barack Obama, the EPA proposed in 2015 to revoke all uses of chlorpyrifos on food — a move taken in response to a petition filed by the Natural Resources Defense Council and Pesticide Action Network North America. A federal judge had given the EPA until Friday to decide whether to finalize its ban of the pesticide.

On Wednesday, EPA Administrator Scott Pruitt decided the answer would be no.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

His statement argued that the “public record lays out serious scientific concerns and substantive process gaps in the proposal.”

Sheryl Kunickis, director of the Office of Pest Management Policy at the Department of Agriculture, agreed with the decision.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world,” she said in a statement. “This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

The chemical industry also pushed hard against a chlorpyrifos ban. Dow AgroSciences, which manufactures the pesticide, said late last year that the Obama administration’s assessment of its safety “lacks scientific rigor.” The company said it “remains confident that authorized uses of chlorpyrifos products, as directed, offer wide margins of protection for human health and safety.”

But dozens of scientific researchers, doctors and public health professionals had joined the environmental groups in urging the EPA to prohibit all use of chlorpyrifos.

“With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains,” a group of supporters wrote in a letter to the agency early this year. “We strongly urge EPA to finalize its assessment and cancel all remaining uses of chlorpyrifos as expeditiously as possible.”

Environmental activists were incensed Wednesday, saying that Pruitt had ignored substantial evidence of potential harms.

“The chance to prevent brain damage in children was a low bar for most of Scott Pruitt’s predecessors, but it apparently just wasn’t persuasive enough for an administrator who isn’t sure if banning lead from gasoline was a good idea,” Environmental Working Group president Ken Cook said in a statement. “Instead, in one of his first major decisions as head of the EPA, like a toddler running toward his parents, Pruitt leaped into the warm and waiting arms of the pesticide industry.”

InsideEPA

<https://insideepa.com/daily-news/pruitt-woos-conservatives-ghg-risk-finding-offers-no-firm-promise>

Pruitt Woos Conservatives On GHG Risk Finding But Offers No Firm Promise

By Doug Obey 3/29/17

EPA Administrator Scott Pruitt is offering assurances to his most conservative critics that he is committed to scuttling numerous Obama-era climate policies -- while leaving the door open to efforts to repeal the agency's landmark greenhouse gas endangerment finding -- after a conservative columnist called for his resignation because of a lack of action so far on the finding.

In a [March 28 interview](#) with *Breitbart* -- the hard-line conservative news outlet formerly run by White House chief strategist Steve Bannon -- Pruitt said he will eventually respond to petitions that have been filed seeking to roll back the GHG endangerment finding, the legal basis for EPA's climate rules and an effective requirement of the Supreme Court's ruling in *Massachusetts v. EPA*.

“I think that if there are petitions for reconsideration for the [endangerment finding], we’ll have to address those at some point,” Pruitt said in the interview. “Our objective, and our role, is to do what the law requires.”

He does not mention that there are currently as many as three petitions pending at the agency to reconsider the landmark risk finding.

Pruitt's comments underscore the political and legal awkwardness of President Donald Trump's executive order to review or scrap numerous climate policies, such as EPA's Clean Power Plan, but not the endangerment finding.

Many of the administration's most conservative supporters are concerned that the order does not go far enough in calling for officials to reconsider the endangerment finding, fearing it will undercut administration efforts to rescind climate rules.

Many observers have long asserted that the Clean Air Act still obligates the agency to act on GHGs even in the absence of the regulations Trump is seeking to roll back, meaning that the conservatives' hope of scrapping the GHG risk finding might be legally infeasible.

One of those critics, *Breitbart* columnist James Delingpole in a March 27 column argued that Pruitt should resign if he cannot follow through with efforts to scrap the finding.

He cited reports that Pruitt resisted including a reference to the endangerment finding in the executive order and suggested that he may have done so because he wants to appear more moderate as he is interested in running for the Senate seat expected to be vacated by Sen. James Inhofe (R-OK).

Awkward Line

Pruitt in the interview with *Breitbart* emphasizes themes likely to appeal to a conservative audience amid an ongoing Senate confirmation battle over Trump's Supreme Court pick, defending “EPA originalism,” defined as adhering to Congress' original authorities.

Pruitt also touts plans to rein in alleged agency overreach. “We’re going to roll it back, those things that were unlawful, we’re going to roll back those things that were an overreach, we’re going to roll back the steps taken by the previous administration.”

Pruitt has walked an awkward public line on the GHG finding even while repeatedly criticizing specific Obama climate change programs, suggesting during his Senate confirmation process that getting rid of the finding is not a priority.

At the time, Pruitt did not rule out any EPA action on the issue but called the finding the “law of the land,” appearing to offer a political shield to lawmakers that they would not be branded climate skeptics simply for voting for him.

But since his confirmation, Pruitt declared in a *CNBC* interview that carbon dioxide is not a “primary contributor” to global warming, sparking widespread blowback from scientists and others and appearing to refute the EPA finding.

His *Breitbart* interview also wades into non-climate topics, including a stated goal of refocusing the agency away from climate change and on to 1,300 Superfund sites that have lingered on the agency's National Priorities List.

That goal, however, appears to clash with preliminary Trump administration budget requests that would impose a massive 31 percent cut on the agency and appears to include significant cuts to both Superfund and brownfields programs, based upon analysis by former EPA employees.

Sources outside the agency say they believe that Pruitt has successfully fought off some proposed brownfields-related cuts, but that budget threats in those areas remain. -- *Doug Obey* (dobey@iwpnews.com)

Agri-Pulse

<https://www.agri-pulse.com/articles/9113-epa-rejects-petition-to-revoke-chlorpyrifos-tolerances>

EPA rejects petition to revoke chlorpyrifos tolerances

By Steve Davies 3/29/17, 10:03PM

WASHINGTON, March 29, 2017 - The Environmental Protection Agency has decided to continue allowing the use of the insecticide chlorpyrifos, stating that the science surrounding human health effects is too uncertain to justify its own proposed ban on food tolerances.

The agency announced the decision late today, two days ahead of a court-ordered deadline. The Natural Resources Defense Council and Pesticide Action Network had petitioned the agency 10 years ago to ban Dow AgroSciences' organophosphate insecticide (tradename: Lorsban), which is used to control a variety of crop pests, including corn rootworm and soybean aphid.

The groups have argued that food residue levels are high enough to pose a risk to the developing brain and nervous system.

But EPA said in its news release that its October 2015 proposal to revoke food tolerances "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

An EPA Scientific Advisory Panel convened to examine the epidemiological data used by the agency questioned the agency's use of a Columbia University study that relied on umbilical cord blood data from pregnant women to extrapolate exposure levels for children. The SAP released its report last summer.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," EPA Administrator Scott Pruitt said. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

The National Association of State Departments of Agriculture (NASDA) was quick to praise the decision.

"By maintaining the Maximum Residue Limits for chlorpyrifos, agricultural use of this important tool will continue, significant disruption of international trade is avoided, and harmonization efforts may continue globally," NASDA President and Louisiana Commissioner of Agriculture & Forestry Mike Strain said. "As state regulatory partners with EPA, we look forward to continuing to work with the agency to ensure current and future tools are reviewed in a rigorous, scientifically sound, and transparent manner."

USDA also was pleased. Sheryl Kunickis, director of the department's Office of Pest Management Policy, said the decision "means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world."

Kunickis also said it was "great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables," and added, "We thank our colleagues at EPA for their hard work."

Chlorpyrifos is used on more than 50 crops, including soybeans, alfalfa, wheat, citrus, fruit, tree nuts, vegetables, sugarbeets and cotton, CropLife America said in a brief filed in the 9th Circuit Court of Appeals. It is “the leading insecticide active ingredient to control a number of different insects in crops, including soybean aphids in soybeans, aphids and armyworm in alfalfa, European asparagus aphid and cutworm in asparagus, corn rootworm and lesser cornstalk borer in peanuts, and leafrollers and San Jose scale in apples.”

“The public record lays out serious scientific concerns and substantive process gaps in the proposal,” EPA said in its release. “Reliable data, overwhelming in both quantity and quality, contradicts the reliance on – and misapplication of – studies to establish the end points and conclusions used to rationalize the proposal.”

In its order denying the petition, EPA said it has “concluded that, despite several years of study, the science addressing neurodevelopmental effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos.”

The agency “has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues. As noted, Congress has provided that EPA must complete registration review by October 1, 2022.”

In the days leading up to the decision, environmental groups had mobilized to muster support for the proposed tolerance revocation. The Environmental Working Group collected signatures for an [online petition](#), saying that “research has linked chlorpyrifos to nervous system damage, behavioral problems and lower IQ in young children whose mothers were exposed during pregnancy. In adults, low-level exposure to chlorpyrifos can cause nausea, headaches and dizziness. Farmworkers and others who are severely exposed have suffered vomiting, muscle cramps, diarrhea, blurred vision, loss of consciousness and even paralysis.”

DTN

<https://www.dtnpf.com/agriculture/web/ag/news/crops/article/2017/03/30/epa-disagrees-previous-tact>

EPA: No Chlorpyrifos Ban

By Todd Neeley 3/29/17, 7:38PM

OMAHA (DTN) -- The pesticide ingredient chlorpyrifos will not be banned by the U.S. Environmental Protection Agency, according to a news release issued by the agency late Wednesday afternoon.

EPA Administrator Scott Pruitt announced the agency denied a petition filed by environmental groups to ban the pesticide outright, saying in a statement that farmers need chlorpyrifos.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making rather than predetermined results."

Chlorpyrifos is the main ingredient in Lorsban, Dow AgroSciences' organophosphate insecticide targeting pests such as soybean aphids, spider mites and corn rootworm.

Since being sworn in as EPA administrator, Pruitt has begun the process of turning back regulations created during the previous administration.

Dow AgroSciences said in a statement to DTN Wednesday evening that the company was pleased with EPA's decision.

"Dow AgroSciences supports U.S. Environmental Protection Agency's decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in its statement.

"Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops. We will continue to cooperate with EPA under the established regulatory process in its scientific review of this vital crop protection solution."

Sheryl Kunickis, director of the Office of Pest Management Policy at USDA, said in a statement it was important to keep chlorpyrifos available to farmers.

"This is a welcome decision grounded in evidence and science," she said. "It means that this important pest-management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world."

"This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States. It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables."

In a news release Wednesday evening, EPA said "the public record lays out serious scientific concerns and substantive process gaps in the proposal. Reliable data, overwhelming in both quantity and quality, contradicts the reliance on, and misapplication of, studies to establish the end points and conclusions used to rationalize the proposal."

The EPA said USDA "disagrees with the methodology" used by the previous administration.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," EPA said in its release.

"The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) also expressed concerns with regard to EPA's previous reliance on certain data the agency had used to support its proposal to ban the pesticide."

The road to the proposed chlorpyrifos ban began when the Pesticide Action Network North America and Natural Resources Defense Council filed a petition in 2007 to force EPA to take action on chlorpyrifos, based on concerns over drinking water. In June 2015, the U.S. Ninth Circuit Court of Appeals issued a ruling pressuring EPA to make a decision by Oct. 31, 2015, on whether or not it would establish food tolerances for the insecticide. EPA stated it did not have the data needed to do so and instead would pursue a ban.

Last summer, EPA asked the court for a six-month extension to take final action.

In a final order issued Aug. 12, 2016, the court ruled against the request by EPA and ordered the agency to take action by March 31, 2017.

Most recently, the EPA revised its human health risk assessment for chlorpyrifos in November 2016 to state that residues on food crops and in water are at unsafe levels.

There was concern that doing away with chlorpyrifos could at some point complicate the battle against insects, especially when growers are being encouraged to rotate chemistries to guard against insect resistance.

Corn accounts for chlorpyrifos' largest agriculture market as far as total pounds used because, overall, there are more corn acres than soybean acres, according to EPA. However, in recent years, use of chlorpyrifos has expanded in soybeans and has been on the decline in corn.

According to Dow AgroSciences' website, chlorpyrifos use in soybeans expanded from about 200,000 acres in 2004 to about 8 million acres in 2008. Dow estimated chlorpyrifos was applied to about 11% of soybean acres planted in 2008.

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-epa-returning-to-using-sound-science-on-pesticide-ban-reversal/article/2618829>

Pruitt: EPA 'returning to using sound science' on pesticide ban reversal

By John Siciliano 3/29/17 8:05 PM

Environmental Protection Agency chief Scott Pruitt slammed the brakes on an environmentalists' push to ban a commonly used pesticide, saying the decision marks the return of sound science to the agency.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," Pruitt said on Wednesday in announcing that he is terminating the proceedings to ban the pesticide chlorpyrifos.

He said the decision maintains "regulatory certainty to the thousands of American farms that rely

on chlorpyrifos, while still protecting human health and the environment."

The large environmental activist group Natural Resources Defense Council had petitioned that the chemical be banned from use in the United States. The Obama EPA took up the petition in October 2015 and was in the middle of finalizing a ban on the substance when the Trump administration took the reins of government in January.

Pruitt pointed out that the public record showed "serious scientific concerns and substantive process gaps in the proposal," making the previous administration proposed action unreliable.

EPA said in a release that the U.S. Agriculture Department disagreed with the scientific methodology the Obama administration used in making its determination.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," it said. "The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel also expressed concerns with regard to EPA's previous reliance on certain data the Agency had used to support its proposal to ban the pesticide."

The Agriculture Department welcomed EPA's decision, saying it will prevent major disruptions for farmers trying to find a replacement for the pesticide.

"It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables. We thank our colleagues at EPA for their hard work," said Sheryl Kunicki, the agency's director of pesticide control.

AP

http://hosted.ap.org/dynamic/stories/U/US_ENVIRONMENTALISTS_CLIMATE_PLAN?SITE=AP&SECTION=HOME

Environmental groups file lawsuit over Trump climate actions

By Tammy Webber and Matthew Brown 3/29/17 6:20 PM

CHICAGO (AP) -- Environmental groups that vowed to fight President Donald Trump's efforts to roll back his predecessor's plans to curb global warming made good on their promise Wednesday, teaming up with an American Indian tribe to ask a federal court to block an order that lifts restrictions on coal sales from federal lands.

The Interior Department last year placed a moratorium on new coal leases on federal lands to review the climate change impacts of burning the fuel and whether taxpayers were getting a fair return. But Trump on Tuesday signed a sweeping executive order that included lifting the moratorium, and also initiated a review of former President Barack Obama's signature plan to restrict greenhouse gas emissions from coal-fired power plants.

Environmentalists say lifting the moratorium will worsen climate change and allow coal to be sold for unfairly low prices.

"It's really just a hail Mary to a dying industry," said Jenny Harbine, an Earthjustice attorney who filed the lawsuit in U.S. District Court in Montana on behalf of the Northern Cheyenne Tribe, Sierra Club, and Center for Biological Diversity.

The White House did not immediately respond to an email seeking comment on the lawsuit. The Department of Justice declined comment.

Environmental groups have been preparing for months to fight the Trump administration's environmental rollbacks, including by hiring more lawyers and raising money. Trump, who has called global warming a "hoax" invented by the Chinese, said during his campaign that he would kill Obama's climate plans and bring back coal jobs.

Advocates said they also will work to mobilize public opposition to the executive order, saying they expect a backlash from Americans who worry about climate change.

"This is not what most people elected Trump to do," said David Goldston, director of government affairs at the Natural Resources Defense Council. "Poll after poll shows that the public supports climate action."

A poll released in September found 71 percent of Americans want the U.S. government to do something about global warming, including 6 percent who think the government should act even though they are not sure that climate change is happening. That poll, which also found most Americans are willing to pay a little more each month to fight global warming, was conducted by The Associated Press-NORC Center for Public Affairs Research and the Energy Policy Institute at the University of Chicago.

While Republicans have blamed Obama-era environmental regulations for the loss of coal jobs, federal data show that U.S. mines have been losing jobs for decades because of automation and competition from natural gas; solar panels and wind turbines now can produce emissions-free electricity cheaper than burning coal.

But many people in coal country are counting on the jobs that Trump has promised, and industry advocates praised his orders.

"These executive actions are a welcome departure from the previous administration's strategy of making energy more expensive through costly, job-killing regulations that choked our economy," said U.S. Chamber of Commerce President Thomas J. Donohue.

Trump's order also will initiate a review of efforts to reduce methane emissions in oil and natural gas production, and will rescind Obama-era actions that addressed climate change and national security and efforts to prepare the country for the impacts of climate change. The administration still is deciding whether to withdraw from the Paris Agreement on climate change.

And on Wednesday, the administration asked a federal appeals court to postpone a ruling on lawsuits over the Clean Power Plan, the Obama initiative to limit carbon from power plants, saying it could be changed or rescinded.

A coalition of 16 states and the District of Columbia said they will oppose any effort to withdraw the plan or seek dismissal of a pending legal case, while environmental advocates said they're also ready to step in to defend environmental laws if the U.S. government does not.

"The president doesn't get to simply rewrite safeguards; they have to ... prove the changes are in line with the law and science," said the NRDC's Goldston. "I think that's going to be a high hurdle for them."

Environmentalists say Trump's actions will put the U.S. at a competitive disadvantage to other countries that are embracing clean energy, which they say could create thousands of new jobs.

Even so, they believe efforts to revive coal ultimately will fail because many states and industries already have been switching to renewable energy or natural gas.

"Those decisions are being made at the state level and plant by plant," said Earthjustice President Trip Van Noppen, who said his group is "continuing to work aggressively to retire dirty coal plants."

"Coal is not coming back," Van Noppen added. "While the president is taking big splashy action, he is actually doomed to fail."

AP

http://hosted.ap.org/dynamic/stories/U/US_CONGRESS_EPA?SITE=AP&SECTION=HOME&TEMPLATE=D

House approves bill to force public release of EPA science

3/29/17 5:56 PM

WASHINGTON (AP) -- House Republicans are taking aim at the Environmental Protection Agency, targeting the way officials use science to develop new regulations.

A bill approved Wednesday by the GOP-controlled House would require that data used to support new regulations to protect human health and the environment be released to the public.

Rep. Lamar Smith, R-Texas, said "the days of 'trust me' science are over," adding that the House bill would restore confidence in the EPA's decision-making process.

Connecticut Rep. Elizabeth Esty and other Democrats said the bill would cripple EPA's ability to conduct scientific research based on confidential medical information and risks privacy

violations by exposing sensitive patient data.

The bill was approved 228-194 and now goes to the Senate.

Reuters

<http://www.reuters.com/article/us-usa-pesticide-epa-idUSKBN17039F>

U.S. EPA denies petition to ban pesticide chlorpyrifos

3/29/17 7:55 PM

The U.S. Environmental Protection Agency said on Wednesday it had denied a petition by environmental groups that sought to ban the agricultural pesticide chlorpyrifos.

In October 2015, the Obama administration proposed to revoke all food residue tolerances for chlorpyrifos, an active ingredient in insecticides. The proposal was issued in response to a petition from the Natural Resources Defense Council and Pesticide Action Network North America, the EPA said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," EPA Administrator Scott Pruitt said in the statement.

Reuters

<http://www.reuters.com/article/us-volkswagen-emissions-idUSKBN17102C>

Volkswagen says U.S. approves sale of modified diesel vehicles

By David Shepardson 3/30/17 9:59 PM

Volkswagen AG (VOWG_p.DE) said the U.S. Environmental Protection Agency has approved its request to sell up to 67,000 diesel vehicles from the 2015 model year, including about 12,000 currently in dealer inventory with approved emissions modifications.

The vehicles in inventory were held when the company issued a stop sale in September 2015, Volkswagen spokeswoman Jeannine Ginivan told Reuters.

Ginivan said the company was finalizing details of the program.

The EPA approved a fix for about 70,000 Volkswagen diesel vehicles in January.

An EPA spokeswoman declined to comment on the matter.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-29/trump-s-coal-revival-will-make-it-harder-to-breathe>

Trump's Coal Revival Will Make It Harder to Breathe

By David Shipley 3/29/17 5:06 PM

President Donald Trump's effort to prop up the coal industry will not, over the long run, succeed -- the energy market will make sure of that. But it could impede America's progress toward stabilizing the climate, and it will certainly harm public health.

Burning coal, after all, releases a lot more bad stuff into the air than just carbon dioxide. There's also mercury, which makes its way into rivers and streams, where it's eaten by fish and, in turn, by people -- poisoning brains and nervous systems, especially those of developing fetuses.

And then there's sulfur dioxide, nitrogen oxide, any number of other volatile compounds, and particles of metal and chemicals. Aloft, this mess combines with sunlight to form smog. More than 7,500 Americans die from breathing it every year.

The Clean Power Plan -- an initiative of former President Barack Obama, and the principal target of Trump's efforts -- would have prevented as many as 3,600 premature deaths a year by 2030, according to the Environmental Protection Agency. That plan is now tied up in litigation, but Trump proposes to do away with it altogether.

It's not clear that he can, because it will require making a reasonable argument for why the EPA should suddenly stop regulating greenhouse gases. But it's a bad idea even to try.

Coal power is already dying of other causes, including the Sierra Club's Beyond Coal campaign effort (funded by Michael R. Bloomberg) to close coal-fired energy plants, and coal's failure lately to stay competitive with natural gas and even wind and solar power.

With his executive order doing away with most of the Obama administration's efforts to discourage coal use, Trump may be able to slow coal's slide. But he can't return it to its former status as America's main power source. And, because of increasing automation, he won't save coal-mining jobs. Even judged by the claims Trump makes for it, this policy is poised to accomplish nothing at all.

The Hill

House votes to restrict EPA's use of science

By Timothy Cama 3/29/17 4:57 PM

The House voted Wednesday to restrict the kind of scientific studies and data that the Environmental Protection Agency (EPA) can use to justify new regulations.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, passed 228-194. It would prohibit the EPA from writing any regulation that uses science that is not publicly available.

It's the latest push by House Republicans to clamp down on what they say has turned into an out-of-control administrative state that enforces expensive, unworkable regulations that are not scientifically sound.

Even with President Trump in the White House, the GOP feels it's important to make lasting changes to how regulations are written and justified.

The House earlier this year passed a pair of bills to rein in regulations across government — the Regulations from the Executive in Need of Scrutiny (REINS) Act and the Regulatory Accountability Act.

But Democrats, environmentalists and health advocates say the HONEST Act is intended to handcuff the EPA. They say it would irresponsibly leave the EPA unable to write important regulatory protections, since the agency might not have the ability to release some parts of the scientific data underpinning them.

The HONEST Act is similar to the Secret Science Act, which leaders in the House Science Committee sponsored in previous congresses and got passed.

"This legislation ensures that sound science is the basis for EPA decisions and regulatory actions," Rep. Lamar Smith (R-Texas), chairman of the Science Committee, said on the House floor Wednesday.

"The days of 'trust-me' science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review," he said. "That's called the scientific method."

Smith framed his bill as an extension of the highly-regarded quest to use the best science to inform regulators.

He said the EPA — particularly under former President Obama — often hid the data it used in

regulations, preventing the public and peer scrutiny that helps ensure the science is the best available.

“We all care about the environment,” he said. “But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain.”

The bill would also require that any scientific studies be replicable, and allow anyone who signs a confidentiality agreement to view redacted personal or trade information in data.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee’s top Democrat, slammed her GOP colleagues for what she called a “misguided” effort to stop sensible EPA regulations.

She denied that the EPA is overly secretive with its science, saying it often doesn’t own the information and has no right to release it.

“The secret science bills the Republicans tried to enact over the previous two congresses were insidious bills, designed from the outset to prevent EPA from using the best available science to meet its obligations under the law. Those bills were constructed to hamstring the ability of EPA to do about anything to protect the American public,” she said.

The latest iteration adds the redactions and the ability to view redacted information, which Johnson called “a Pandora’s Box, which could have untold consequences for the EPA, industry and the general public,” including restricting the EPA’s ability to gather information.

“In reality, this bill isn’t about science. It’s about undermining public health and the environment,” she said.

Republicans on the Science Committee passed the bill earlier this month, alongside another bill to reform the EPA’s Science Advisory Committee. The advisory panel would be required to have geographic diversity and representatives from certain stakeholder groups.

The full House is likely to consider that bill soon.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/epa-denies-chlorpyrifos-petition-085664>

EPA denies chlorpyrifos petition, scrapping Obama era finding of health risks

By Jenny Hopkinson 3/29/17, 7:51PM

The EPA has denied a petition from environmentalists calling for a ban on the pesticide

chlorpyrifos, bucking the Obama administration's findings that the chemical poses health risks.

In a notice posted to its website Wednesday evening, the agency says it will address the questions raised in the petition during a broader review of the pesticide that it expects to finish in 2022. That review will consider the concerns about potential neurodevelopmental toxicity in children that were raised in the 2007 petition from the Pesticide Action Network North America and the Natural Resources Defense Council.

The decision is a reversal from a November 2016 proposal from the EPA under then-President Barack Obama that called for revoking the pesticide's permitted tolerances — the amount of residue that can be found on crops and produce — which would have effectively banned chlorpyrifos in agricultural uses. The agency was under a court-ordered deadline to respond to the petition by Friday.

"Despite several years of study, the science addressing neurodevelopmental effects remains unresolved," EPA wrote in the notice. It said that "further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos."

The decision added that "EPA has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues."

InsideEPA

<https://insideepa.com/daily-news/epa-weighs-tapping-superfund-site-accounts-offset-fy18-budget-cuts>

EPA Weighs Tapping Superfund 'Site' Accounts To Offset FY18 Budget Cuts

By Suzanne Yohannan 3/29/17

EPA officials are considering offsetting massive proposed cuts to the Superfund cleanup

program in fiscal year 2018 by borrowing from “special accounts” -- site-specific accounts funded from settlements with responsible parties -- to offset any cuts and apply the money more broadly to pay for cleanup needs in the coming year.

EPA’s acting waste chief Barry Breen told a Senate panel hearing March 29 on cleaning up Cold War legacy sites that the agency is “looking for ways we can go deeper into using accounts that the Treasury Department has allowed us to set up.”

“These are interest-bearing savings accounts with the U.S. Treasury where we have put money that defendants have given us we’ve deposited there and we can draw on,” he said in response to a question from Sen. Mike Rounds (R-SD).

Breen said the agency is eyeing the approach because Congress has labeled Superfund “no-year money,” noting that the agency does not have to spend all that it is given in a particular year. “So we can look to prior years’ funding in order to fund needs in future years,” he said.

He added that EPA will also “be looking for efficiencies administratively, efficiencies in the way we move funding among accounts, and more, in order to get as much progress for the public as we can.”

While it is not clear how the agency plans to repay any funds it taps, advancing the approach may be crucial for Administrator Scott Pruitt, who has pledged to speed cleanups and delist sites from the National Priorities List. But he may be stymied by [White House plans](#) to slash \$330 million, or 30 percent, from Superfund cleanup spending in FY18.

The administration has also proposed to cut \$30 million from the \$500 million the program was slated to receive in FY17, saying the additional cuts “will ease the program into further reductions in FY 2018.”

Given such cuts, the special accounts could prove to be a significant source of funds. A 2009 report from EPA's Office of Inspector General (OIG) said at that time there was a surplus of \$1.1 billion spread over 819 special accounts.

Sources now say the surpluses may be even larger. For instance one account alone, stemming from the Obama administration's settlement with Anadarko Petroleum Corp., includes more than \$1 billion intended to address abandoned uranium mining sites on tribal land.

Special Accounts

But the plan to tap funds from the special accounts is drawing mixed reviews from attorneys and some private parties.

One attorney questions whether taking money dedicated to a particular site through a special account and using it for other sites would be a breach of contract, or in effect violate specific settlement terms. Special accounts “have been able to insulate these sites from the vagaries of the budgetary process,” the attorney says.

The attorney says the goal is to raid special accounts and move that money over to the Superfund trust fund, which would allow for the administration to request lower budgets from congressional appropriators. “It takes away money dedicated for sites that would not be available for the [Superfund] trust fund,” the source says.

An industry source downplayed such concerns but nevertheless acknowledged potential “risk” that the money would not be easily repaid if the budget were not to stabilize in future years.

“It’s an accounting matter, not a welching on the deal matter,” the source says. The money could be used now, with the understanding that it will not void future obligations by EPA to repay accounts from which it has borrowed money. This source says that obviously this could not be done every year because of the risks of being unable to pay back the accounts.

The industry source concedes EPA's approach assumes that the budget will become more stable over time so the funds can be repaid, but that there is a risk with taking this position because

EPA's budget may not be restored. The source says EPA is probably "making a reasonable risk calculation."

Cleanup Appropriations

Superfund special accounts are separate from the appropriations EPA receives for the cleanup program. Funds appropriated by Congress are dedicated to fund-lead site cleanups, removal actions, pre-remedial work and personnel, the attorney says.

Superfund special accounts, by contrast, are often set up in response to court-sanctioned settlement agreements, where settlement monies from potentially responsible parties (PRPs) are placed into a special account, to be drawn from for cleanup at the specific site for which the PRPs were liable, according to sources familiar with the mechanism.

Section 122(b)(3) under the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) authorizes EPA to retain and use settlement funds to address cleanups specified in the settlement agreement, EPA's OIG says in the 2009 report on the topic.

It notes that the agency places these funds in interest-bearing, site-specific accounts known as "special accounts."

For instance, these can include situations where smaller contributors at a site cash out and settle with EPA for their share of cleanup costs, according to an industry source. The money is then put into a special account.

The major PRPs at the site then perform 100 percent of the cleanup, and are supposed to be reimbursed from the account for the portion of cleanup for which they were not responsible, although EPA has often been slow to reimburse due to claims of further cleanup requirements at the specific site, the industry source says.

But the accounts and EPA's handling of them has come in for criticism. For example, the OIG has pressed EPA to "reclassify" at least some special account funds -- specifically those the

agency held as “reserves” -- to support other priority sites, particularly sites for which human exposure is not under control.

In the 2009 report, the OIG sought improvements to the agency’s handling of special accounts, saying its uncoordinated approach “led to missed opportunities to fund needed Superfund cleanups” and previously had recommended that \$59 million of “idle special account funds be reclassified or transferred” to the Superfund trust fund.

'External Audit'

The accounts have also drawn criticisms from top former Trump transition team officials, who are urging the administration to tap the funds.

“EPA should review the Superfund special accounts and probably then commission an external audit,” Myron Ebell, who led the Trump transition team at EPA, told *Inside EPA*. Ebell, who has now returned to the free-market Competitive Enterprise Institute, said he does not know Pruitt’s views on the matter or what EPA is planning.

Ebell had previously told the *Daily Caller*, a conservative news organization, in 2016 that the special accounts are “the very definition of an out-of-control agency, if they can raise their own money and not have to go to Congress to have it appropriated.”

The news outlet had labeled the accounts “akin to slush funds,” which may have been the impetus for the Trump beachhead team to collect information on the accounts from EPA staff during the transition, informed sources say.

Despite such criticism, the attorney says the site-specific accounts have provided benefits. In addition to funding cleanups, the special accounts have been used to pay for EPA employees. These employees would likely have to be let go, while cleanup at the special account sites “could slow depending on how much money is made available to the site from the trust [fund] and who is doing the cleanup” -- whether EPA or PRPs.

This source believes that sites where PRPs are responsible for conducting cleanups may not be affected because money from settlements with smaller PRP contributors is being used to reduce

the liability of PRPs performing the full cleanup. But this source foresees problems at sites where EPA is performing the work, paid for by PRPs into a settlement special account. If the money is transferred, then EPA will not be able to pay the cleanup contractors, the source says. -- Suzanne Yohannan (syohannan@iwpnews.com)

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Huffington Post

http://www.huffingtonpost.com/entry/epa-air-quality-studies_us_58dc3a27e4b08194e3b71ab3

Top Scientists Defense EPA Air Pollution Studies As Politicians Attack Science

By Alexander C Kaufman 3/29/17, 7:39PM

Over a year ago, the Environmental Protection Agency asked the country's top scientific body to pore over six years of studies into how air pollution affects human health. It was a move meant to quell critics who questioned the safety of conducting such research.

The National Academies of Sciences, Engineering, and Medicine finally released its findings on Tuesday, offering a resounding endorsement of the EPA's protocol for conducting tests on human subjects, along with a few suggestions on how to make the tests safer.

The 159-page report makes for humdrum reading, but its timing injects the analysis with a sense of urgency. Lawmakers emboldened by the Trump administration's assault on environmental regulations have moved to change the way science is used to draft policy to open the door to more industry-friendly or ideologically driven research.

Last month, the House Committee on Science, Space and Technology invited a coal lawyer, a chemical industry lobbyist and a libertarian scholar who has accused the EPA of "regulatory terrorism" to testify alongside a lone advocate for science as witnesses before a congressional hearing titled "Making EPA Great Again." On Tuesday, the committee's chairman, Rep. Lamar Smith (R-Texas), convened another hearing, "Climate Science: Assumptions, Policy Implications, and the Scientific Method," will "examine the scientific method and process as it relates to climate change" and "focus on the underlying science that helps inform policy decisions," according to a hearing charter. To do that, Smith fleshed out his four-person panel with a trio of prominent, like-minded climate change skeptics and attacked the credibility of Science magazine.

The report released Tuesday assesses the treatment of more than 800 participants across 21 studies the EPA conducted from 2009 to 2016, and how that research influenced policies to protect the public from toxic air pollution. But the takeaway can be applied to the agency's overall use of science in rule-making, according to Robert Hiatt, chair of the epidemiology and biostatistics department at the University of California, San Francisco.

"The studies the EPA conducts are valuable," Hiatt, the report's lead author, told The Huffington Post by phone Monday. "They contribute knowledge to making important decisions for the public."

He said the timing of the report, commissioned roughly 18 months ago by the Obama administration's EPA, was a fluke.

"It is totally bizarre and coincidental that, at the same time, this issue has come to the floor on the national political scene," Hiatt said. "The fact that they're colliding this week is totally by chance. But the relevant information is still important."

Hiatt and his team of 14 other researchers dug deep into eight experiments in particular, called controlled human inhalation exposure, or CHIE, studies that typically subject participants to hours of a pollutant to see how it affects lung function. The results of those studies are used to set EPA standards for air quality under the Clean Air Act.

The agency's scientific methods, however, weren't without flaw. In one study, Hiatt found that a 58-year-old woman suffered an irregular heartbeat during a test. Doctors immediately hospitalized her, and she was discharged two hours later when she was determined to be fine. It's not clear whether her heart rate hastened by exposure during the test or by chance due to chronic disease. Hiatt recommended EPA researchers increase the amount of information given to participants before tests. But the incident marked the only one of 845 cases that went awry, and Hiatt said researchers handled it appropriately.

"The safety of the individual was never in question," Hiatt said. "It now becomes a political decision by the country's deciders about what to do with this information."

Washington Examiner

<http://www.washingtonexaminer.com/trump-asks-federal-judges-to-delay-ruling-on-obama-era-climate-plan/article/2618799>

Trump asks federal judges to delay ruling on Obama-era climate plan

By John Siciliano 3/29/17 3:44 PM

The Justice Department is prodding federal appeals court judges to delay their ruling on the Obama-era Clean Power Plan until the Environmental Protection Agency has time to tweak the plan itself using President Trump's latest executive order as a guide.

A delay would help the Trump administration ensure that the judges don't rule favorably on any aspect of the rule that they are likely to gut in the coming months.

"EPA should be afforded the opportunity to fully review the Clean Power Plan and respond to the president's direction in a manner that is consistent with the terms of the executive order, the Clean Air Act, and the agency's inherent authority to reconsider past decisions," federal attorneys argued in a brief sent to the court Wednesday.

Deferral of further judicial proceedings is thus warranted," the brief said.

Trump's energy independence order signed on Tuesday directed EPA chief Scott Pruitt to begin a review of the Obama administration's climate plan toward the eventual goal of rescinding it. Meanwhile, a 10-judge panel of the D.C. Circuit Court of Appeals is reviewing a lawsuit by 28 states and hundreds of industry groups opposing the regulation.

The court is expected to issue a decision in the coming months, and it is unclear if it will grant the Justice Department's request.

The brief explained to the court that the EPA is closely evaluating the Clean Power Plan, in which "the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions."

The prior positions of the EPA represented in the court were that of the Obama administration, which was defending the regulation from states' claims that the EPA overstepped the limits of its authority in drafting the regulation, and that the climate plan was unconstitutional.

Pruitt, who was formerly the attorney general of Oklahoma, was a lead voice in opposing the Clean Power Plan in the litigation before the D.C. Circuit court ahead of becoming the administrator of the EPA.

The Clean Power Plan was halted by the Supreme Court over a year ago, which states suing the agency took as vindication that the high court agreed with its claims, though the court did not lay out the reasons for staying the plan.

The plan requires that states reduce their greenhouse gas emissions a third by 2030 to help curb the effects of global warming.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Thur 3/30/2017 7:00:46 PM
Subject: RE: OPA Clips 3/30/17

Below: Bloomberg, The Hill, E&E News (3), InsideEPA (2), Mashable, E&E News (3), Politico (2), InsideEPA, Washington Examiner, The Blaze (3/29), Politico (2), New York Magazine, The Daily Caller, The Hill, CNN, Mother Jones, Mother Jones (3/29), NPR (3/29), Bloomberg BNA, Politico, The Hill, LA Times, Bloomberg BNA (3), Bloomberg, E&E News (4), Washington Post (2), Huffington Post, Daily Caller, New York Times (3/29), Washington Post (3/29), InsideEPA (3/29), Agri Pulse (3/29), DTN (3/29), Washington Examiner (3/29), AP (2) (3/29), Reuters (2) (3/29), Bloomberg (3/29), The Hill (3/29), Politico (3/29), InsideEPA (3/29), Huffington Post (3/29), Washington Examiner (3/29)

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Bloomberg

<https://www.bloomberg.com/politics/articles/2017-03-30/epa-email-error-miscasts-coal-country-senator-as-trump-critic>

EPA Email Error Miscasts Coal Country Senator as Trump Critic

By Jennifer Dlouhy 3/30/17, 12:06PM

When the Environmental Protection Agency sent out a roundup of quotes praising President Donald Trump's move to dismantle Obama-era climate policies, the first comment stuck out.

"President Trump has chosen to recklessly bury his head in the sand" by reversing regulations tackling "the greatest environmental challenge of our lifetime," Shelley Moore Capito, a Republican senator from West Virginia coal country, was quoted in the news release as saying.

The only problem? Capito never said any such thing.

Instead, the quote actually came from a Democratic senator from Delaware, Tom Carper, who hasn't been shy about criticizing Trump for trying to dismantle his predecessor's efforts to

address climate change. Trump has called climate change a "hoax" and signed an order Tuesday to begin rescinding a series of EPA rules that would curb carbon-dioxide emissions.

EPA spokesman John Konkus swiftly said the whole thing was an "unfortunate" error -- a case of an internal draft "mistakenly sent with a quote that belonged to Senator Carper but was wrongly attributed to Senator Capito, whom we originally meant to quote." About an hour and a half after the first release went out, the EPA sent out a new corrected version noting that an earlier draft "misattributed a quote from another senator to Senator Capito."

Staff Resistance

Still, the incident was the latest miscue as the Trump administration tries to reorient the nation's environmental policies, sometimes over the objections of career staff. The account for the Badlands National Park Service tweeted out messages highlighting the growing concentration of carbon dioxide in the atmosphere soon after Trump's inauguration. The missives were later deleted and attributed to a former employee who still had the account's credentials.

There have been other examples. The National Oceanic and Atmospheric Administration published a "Wisdom Wednesday" post on its Facebook page with facts about climate change within a week of Trump's swearing-in. It was deleted the same day. And the Twitter account for the Golden Gate National Recreation Area published a visualization of global temperature change that vividly highlights the recent escalation.

Career civil servants and outsiders also have started up new social media accounts under names such as "Rogue NASA" and "altEPA" to provide a running commentary against administration actions.

Career civil servants and outsiders also have started up new social media accounts under names such as "Rogue NASA" and "altEPA" to provide a running commentary against administration actions.

Some Trump supporters have complained that "a deep state" of Obama holdovers is embedded throughout the federal bureaucracy trying to undercut the president.

"There are people that burrow into the government after an administration," White House spokesman Sean Spicer said when asked about the phenomenon on March 21. It's "no huge secret" that of course, "there's people after eight years of Obama that found their way into government," Spicer added, without addressing their motivations.

Environmental activists who oppose the new administration's policies, said acts of bureaucratic resistance -- big and small -- are an important check on Trump and EPA Administrator Scott Pruitt.

"It's vitally important for EPA staff and administrators to continue to work to protect communities and the planet from poison and destruction. We hope they are able to use all the tools available to them to resist Scott Pruitt and Donald Trump's attempts to erase the work and legacy of their

office," said Travis Nichols, a spokesman for Greenpeace. "In many cases, the EPA is the only thing standing between a community and destruction."

The initial message misspelled Capito's first name, and it would be highly unusual to see Democrat Carper quoted alongside the likes of the American Petroleum Institute, the American Coalition for Clean Coal Electricity and the conservative Energy and Environment Legal Institute.

Capito's real quote, for the record, commended Trump for rolling back "one of the most harmful acts of overreach by the Obama administration."

"Stopping this disastrous plan will preserve America's coal industry, expand our manufacturing renaissance that is reliant upon affordable energy, and protect American families from unprecedented hikes in their electric bills," she said.

The Hill

<http://thehill.com/policy/energy-environment/326538-epa-mistakenly-criticizes-trumps-executive-order>

EPA mistakenly criticizes Trump executive order

By Timothy Cama 3/30/17, 12:51PM

The Environmental Protection Agency (EPA) mistakenly sent a news release Thursday that criticized President Trump's executive order to roll back climate change policies.

The error came when the EPA tried to quote Sen. Shelley Moore Capito (R-W.Va.) in a release highlighting praise of Trump's Tuesday order the start undoing former President Obama's climate actions.

"With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," the release quoted Capito as saying, the first quote in a list of over a dozen statements from Republicans, fossil fuel interests and others praising Trump.

"Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime," it continued.

That statement actually came from. Sen. Tom Carper (Del.), the top Democrat on the Environment and Public Works Committee and a harsh critic of Trump's environmental agenda.

“Sen. Carper is happy to lend his words to a good cause,” a Carper spokeswoman said.

Capito, by contrast, cheered Trump’s order.

“Stopping this disastrous plan will preserve America’s coal industry, expand our manufacturing renaissance that is reliant upon affordable energy, and protect American families from unprecedented hikes in their electric bills,” Capito said. Capito attended the signing ceremony Tuesday, and Trump thanked her in his speech.

The EPA sent out a corrected version of the release later Thursday morning, with Capito’s actual quote.

EPA spokesman John Konkus said the agency’s press office accidentally sent a draft version of the release.

“We apologize for the error and are making sure that our process is improved as we build our team,” he said.

The mix-up came amid a rift between a large portion of the EPA’s career, non-political workforce and political leaders in the Trump administration, including EPA Administrator Scott Pruitt.

EPA employees have made their objections known, including through a campaign to lobby the Senate against Pruitt’s confirmation.

An EPA scientist made his concerns public in a letter to the New York Times published Wednesday. “I am very saddened by what I see these days under an E.P.A. administrator whose role it is to dismantle the agency that he leads,” wrote Michael Kravitz, who works in Cincinnati.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052357>

EPA about-faces on banning chemical it once called a risk

By Ariel Wittenberg 3/30/17

U.S. EPA will not outlaw a commonly used pesticide, contradicting evidence the agency put forward last year that the chemical poses a risk to human health.

The indoors use of chlorpyrifos, once commonly used in residential buildings and in home lawns and gardens, was banned in 2000. But agricultural uses for the pesticide, also known as Lorsban, remained, with roughly 55 percent of apples and 45 percent of broccoli and walnuts grown in the United States treated with the chemical.

The Obama EPA proposed banning its use on food in 2015 in response to a petition filed by the

Natural Resources Defense Council and Pesticide Action Network North America.

In preparing to ban chlorpyrifos, EPA published numerous health assessments on the chemical. The most recent one, from November 2016, found that current uses of the chemical pose dietary and drinking water risks to humans, especially children.

The agency found that workers who mix, load and apply the pesticides are at risk from the chemical. It also found that currently approved uses of the pesticide could contaminate nearby drinking water, while chemical residues on produce exceed safety standards set by the Federal Food, Drug and Cosmetic Act.

EPA Administrator Scott Pruitt declined to finalize the ban yesterday, rejecting the environmental groups' petition.

Pruitt framed the decision as an economic one, noting that "thousands of American farms" rely on chlorpyrifos.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," he said in a statement.

EPA now argues that its proposal to ban use of the pesticide on crops "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

That point echoes one made by farm groups last year, which argued in a letter to then-EPA Administrator Gina McCarthy that the science is inconclusive on whether chlorpyrifos causes harm to humans (*E&E News PM*, April 13, 2016).

"EPA also is required to review the best available data. In the process involving chlorpyrifos, the Agency has fallen woefully short of statutory requirements and as stakeholders we expect a consistent and scientific approach based on the law," the groups wrote.

By contrast, groups like the NRDC have argued that exposure to relatively small amounts of the chemical early in life can lead to learning disabilities such as autism and attention deficit hyperactivity disorder.

NRDC senior scientist Miriam Rotkin-Ellman in a statement decried the administration's decision and defended the evidence that the pesticide harms human health.

"The Trump administration has decided to put the needs of chemical corporations before children's health," she said. "We will see Administrator Pruitt in court and require him to provide real evidence, not just 'alternative facts.'"

E&E News

Agency press release blasts Trump by mistake

By Kevin Bogardus 3/30/17

For nearly two hours, President Trump had a new critic: his own agency, U.S. EPA.

Shortly past 9 a.m. this morning, the agency sent out a press release touting praise for the executive order that Trump signed Tuesday, which rolls back several environmental rules, including the Clean Power Plan.

At the top of that release was a quote attributed to Sen. Shelley Moore Capito (R-W.Va.), one of EPA's fiercest critics. Yet instead of praising the president, Capito blasted Trump, according to the release.

"With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible — it's irrational," Capito said.

Except she didn't. The quote came from Sen. Tom Carper of Delaware, ranking Democrat on the Senate Environment and Public Works Committee, who was responding to the president's order.

Around 10:45 a.m., EPA sent out a new press release with "CORRECTION" in its subject line.

Capito's reaction to Trump's order in the new release: "President Trump kept his promise to roll back one of the most harmful acts of overreach by the Obama administration — the so-called Clean Power Plan. If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact."

Capito was in the audience at EPA headquarters for Trump's signing of the order, which he said would help revive the coal industry (*E&E News PM*, March 28).

Asked for Capito's reaction to the mistaken agency press release, a spokeswoman for the senator emailed E&E News Capito's correct statement on the order. Carper's office shared a joke in response to the mishap.

"Senator Carper doesn't mind lending his words to a good cause," said a Carper spokeswoman.

An EPA spokesman said the agency goofed with its original press release and apologized for the mistake.

"An internal draft was mistakenly sent with a quote that belonged to Senator Carper but was wrongly attributed to Senator Capito, whom we originally meant to quote," said EPA spokesman John Konkus.

"We apologize for the error and are making sure that our process is improved as we build our team," he said.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052361>

‘I walk among my colleagues like a zombie in a bad dream’

By Kevin Bogardus 3/30/17

A U.S. EPA scientist said he has been "very saddened" by what he has seen so far at the agency under the Trump administration.

In a three-paragraph [letter](#) sent to the editor of *The New York Times* and published yesterday, Michael Kravitz said he is an environmental scientist at EPA, "where I have enjoyed my work helping to improve our environment."

"But I am very saddened by what I see these days under an E.P.A. administrator whose role it is to dismantle the agency that he leads," said Kravitz, referring to Scott Pruitt, who was confirmed as EPA chief last month. "I walk among my colleagues like a zombie in a bad dream; they also seem dazed."

In a phone interview with E&E News, Kravitz confirmed that he had written the letter.

"I expressed my opinion, and that's it," Kravitz told E&E News, declining to comment further.

Kravitz works in EPA's Cincinnati office. He is listed on the agency's website as the director of EPA's Ecological Risk Assessment Support Center, which addresses questions on risks surrounding hazardous waste sites, and has helped author some scientific papers.

In his letter, Kravitz said the agency's weekly newsletter has articles about flower shows and photo contests rather than environmental protection.

"Our president comes to the E.P.A. to sign an executive order withdrawing the Clean Power Plan and other environmental policies, and the audience applauds," Kravitz wrote. "I hope the nightmare ends soon."

Amid great fanfare, President Trump visited the agency for the first time earlier this week to sign an executive order rolling back several environmental rules, promising to revive the coal industry (*E&E News PM*, March 28). That event did not go over well with career employees who have been angered by Trump's targeting the agency's work (*E&E Daily*, March 28).

EPA press officials didn't respond to messages from E&E News asking for comment for this story.

InsideEPA

<https://insideepa.com/daily-news/epa-reversal-pesticide-ban-signals-shift-away-using-human-data>

EPA Reversal Of Pesticide Ban Signals Shift Away From Using Human Data

By Dave Reynolds 3/30/17

EPA is reversing an Obama administration proposed ban on the commonly-used insecticide chlorpyrifos after finding significant uncertainty in the human exposure data used for the ban, pushing back on an appellate court's power to compel a quick review of the data and signaling a shift away from using it in other pesticide decisions.

In a [March 29 order](#), EPA Administrator Scott Pruitt formally reverses the Obama EPA's October 2015 proposed ban of chlorpyrifos, and denies environmental groups' long-standing petition to no longer allow use of the substance on food to protect against potential neurodevelopmental risks to children.

The Obama EPA proposed the ban under pressure from the U.S. Court of Appeals for the 9th Circuit in [long-running litigation](#) aiming to force a deadline for a decision on a ban.

But Pruitt says use of epidemiological data in pesticide reviews is an area of significant scientific uncertainty. He also argues in the order that the court cannot compel the agency to act to expedite its Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) registration review of the substance ahead of a statutory deadline in 2022.

“While EPA acknowledges its obligation to respond to the Petition as required by the court, the court's order does not and cannot compel EPA to complete the registration review of chlorpyrifos in advance of the October 1, 2022 deadline” under FIFRA,” Pruitt says. “Although past EPA administrations had chosen to attempt to complete that review several years in advance of the statutory deadline (and respond to the Petition on the same time frame), it has turned out that it is not possible to fully address these issues early in the registration review period.”

The decision not only scraps the Obama EPA's proposed ban on chlorpyrifos but also suggests that the Trump EPA will shift away from consideration of human epidemiological data in other pesticide reviews.

That is a win for the pesticide industry which has opposed some uses of that data, and recently said it would seek a public statement that EPA will adhere to FIFRA in pesticide reviews, after the industry clashed with the Obama EPA over reviews of commonly-used but controversial pesticides such as chlorpyrifos.

For example, the pesticide industry group CropLife America lodged a petition with the agency in fall 2016 faulting what it called “significant inconsistency” in EPA's use of human data in pesticide reviews. Industry is expected to welcome the decision to reverse the chlorpyrifos ban, as well as the critical comments on epidemiological data.

But environmental groups who sued EPA seeking a response to their 2007 petition for EPA to ban chlorpyrifos contend Pruitt's reversal violates federal law, and pledge to continue pursuing the litigation.

“EPA’s refusal to ban this dangerous pesticide is unconscionable,” says Earthjustice's Patti Goldman, the attorney in the case. “EPA is defying its legal obligation to protect children from unsafe pesticides. We will be going back and asking the court to order EPA to take action now, rather than in 5 more years.”

Jim Jones, head of the Obama EPA's toxics office for five years, also faulted the decision, telling the New York Times in a March 29 article, “They are ignoring the science that is pretty solid” on chlorpyrifos' risks.

Chlorpyrifos Petition

The Natural Resources Defense Council and Pesticide Action Network North America petitioned EPA in 2007 to ban chlorpyrifos to prevent potential neurodevelopmental risks to children.

In 2014, they filed a deadline suit with the 9th Circuit, and a three-judge panel of the court agreed with their assertions that EPA's delay in answering the years-old petition has been “egregious.”

Under pressure of a court-ordered deadline, EPA in October 2015 proposed revoking all tolerances for chlorpyrifos, essentially banning use of the substance on food, despite having not yet completed analysis needed to support that decision. The court later granted the Obama EPA one final extension, requiring the agency to issue a final response to the petition by March 31 this year.

EPA's chlorpyrifos review has been complicated by scientific uncertainty surrounding use of epidemiological studies in pesticide review, given that EPA pesticide reviews have traditionally been based on animal toxicology studies.

In the order, Pruitt says three Scientific Advisory Panels have offered conflicting recommendations on how or whether to consider epidemiological data in pesticide reviews, and have called for additional study.

“While industry and public interest groups on both sides of this issue can debate what the recommendations mean and which recommendations should be followed, one thing should be clear to all persons following this issue: the science on this question is not resolved and would likely benefit from additional inquiry,” the order says.

EPA says interested parties may file objections to the agency's petition denial within 60 days of the order's upcoming publication in the *Federal Register*. But EPA says the decision is a final adjudication, not a rule, and so does not require public comment prior to taking effect.

Pruitt's decision that epidemiological data suggesting chlorpyrifos poses a neurodevelopmental risk requires further review could also affect EPA's reviews of at least seven other active ingredients that are also in the organophosphate class, and potentially other pesticides as well.

While environmentalists and farmworker groups have called for EPA to consider available epidemiological data in pesticide reviews, pesticide producers repeatedly pressed the Obama EPA to craft a transparent framework for evaluating the human data, noting a 2011 Obama administration directive for agencies to use best available science.

CropLife, the pesticide industry group, in December 2010 petitioned EPA seeking a rule establishing criteria for evaluating epidemiological studies for pesticide reviews.

EPA denied the petition in April 2011, and CropLife lodged its “significant inconsistency” petition with EPA last fall that specifically opposed EPA's use of a controversial Columbia University study of human exposures to chlorpyrifos to support the agency's October 2015 proposed ban of the commonly-used pesticide, arguing it violates FIFRA and the Food Quality Protection Act. -- *Dave Reynolds* (dreynolds@iwpnews.com)

InsideEPA

<https://insideepa.com/daily-news/cleanup-resumes-high-profile-lead-site-citizens-seek-broad-effort>

Cleanup Resumes At High-Profile Lead Site, As Citizens Seek Broad Effort

By Suzanne Yohannan 3/30/17

Cleanup is resuming at a high-profile lead-contaminated site in East Chicago, IN, after EPA reached a long-negotiated administrative settlement with potentially responsible parties (PRPs), even as citizens are separately continuing to press for inclusion in a separate judicial consent decree in order to broaden the agency's response to the various sources of lead exposures to the community.

EPA March 20 announced an agreement with several PRPs at the U.S. Smelter and Lead Refinery, Inc. Superfund site, commonly known as the USS Lead Superfund site, in East Chicago.

The site has drawn national attention and comparisons to Flint, MI, -- where EPA and Michigan officials have drawn extensive criticism over lead in the city's drinking water -- after East Chicago officials gave notice in 2016 they were requiring demolition of a public housing project on a portion of the site upon learning from EPA of high residential lead levels.

Under the just-announced agreement, the PRPs will fund \$16 million of removal actions to be performed by EPA in two of the three zones at the site, according to a March 20 EPA press

release. The PRPs are Atlantic Richfield Company, DuPont, Chemours, and United States Metals Refining Company.

The accord adds to a \$26 million consent decree signed in 2014 for work at the site. EPA Administrator Scott Pruitt says in the release that he and Indiana Gov. Eric Holcomb (R) "agree that protecting the well-being of the people who live on the USS Lead Superfund site is crucial." He adds, "EPA is accelerating the cleanup to keep residents safe in their homes and neighborhoods."

At the site, some properties tested at levels as high as 27,100 parts per million for lead, more than 60 times the hazard level, the citizen litigants point out.

Under the agreement, in zone 2 EPA will remove contaminated soil at about 72 properties. EPA has labeled these as priorities due to high levels of lead or arsenic or because the residences include pregnant women or children who are more sensitive to exposure risks, EPA says. For zone 3, EPA will clean up yards at approximately 120 properties, it says.

In both zones, EPA plans also "to test inside each home and conduct thorough cleanings as needed," it says.

Work in zone 1 is currently on hold until the city decides the future of the property, EPA says. In that zone, high levels of lead have prompted East Chicago officials to call for demolishing a public housing project on the land and relocating residents -- something for which the state of Indiana, according to recent news reports, has secured funding.

Outstanding Issues

Law professors who are representing East Chicago residents seeking to intervene in the 2014 consent decree say in a written statement to *Inside EPA* that they "are glad EPA has recovered more money from the responsible parties to fund the work that it has committed to doing" at the site and say they hope the agency will quickly address soil and indoor contamination.

At the same time, they say many other issues remain outstanding, "including contaminated drinking water, the need for committed funding for long-term remediation of hundreds of properties, and the changed future use for the portion of the site where public housing currently sits."

The site gained national attention last May after the agency informed East Chicago officials of high residential lead levels years after the site was placed on the National Priorities List in 2009 and despite multiple requests for information that officials say were ignored.

The residents, represented by two university law clinics, have been seeking to intervene in the 2014 consent decree, in an attempt to push EPA to recognize the various sources of lead that can burden an environmental justice (EJ) community. The citizens want EPA to more broadly address cumulative impacts for lead at the site.

If the litigation is successful, it could test how EPA factors in EJ and cumulative exposures at Superfund sites.

But the Justice Department (DOJ) in response has fought the residents' intervention request. Last December, DOJ in a legal brief in the case sought dismissal of the citizens' motion, saying the citizens fail to meet the legal prerequisites to intervene and, even if those were met, would be barred from suing under the Superfund law's prohibition on pre-enforcement judicial review of cleanup decisions.

The law professors say their motion to intervene is pending "and relevant to future activities at the site."

Environmental and community groups also more recently petitioned EPA to use its Safe Drinking Water Act authority to take emergency action at the site to ensure citizens have safe drinking water, responding to EPA's recent conclusion that there is system-wide lead contamination at the site. EPA found that more than 40 percent of homes tested at the site have elevated lead levels in drinking water caused by lead service lines and insufficient corrosion control treatment in the water system. -- *Suzanne Yohannan* (syohannan@iwpnews.com)

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Mashable

<http://mashable.com/2017/03/30/epa-press-release-mixup-capito-carper-climate/#b8zqfD2z4OqC>

EPA mistakenly tells the truth about Trump's climate plans

By Andrew Freedman 3/30/17

On Thursday morning, the Environmental Protection Agency sent out a press release containing praise for President Donald Trump's executive order that rolls back Obama-era climate change rules.

But the agency's press office made an obvious mistake in the first paragraph, which included harshly critical comments attributed to West Virginia Sen. Shelley Moore Capito, a Republican coal booster and prominent Trump supporter.

The quote, falsely attributed to Capito, actually belonged to Delaware Sen. Tom Carper, a Democrat.

Yet Carper's statement was far closer to the truth of what the Trump administration did when it ordered the EPA to begin the process of dismantling key greenhouse gas emissions reduction programs and other policies aimed at reducing harmful pollution.

The release quoted Capito as saying: "President Trump has chosen to recklessly bury his head in the sand. Walking away from the [Clean Power Plan](#) and other climate initiatives... is not just irresponsible — it is irrational."

Doesn't exactly sound like praise, does it?

The statement went on to say that Trump's executive order goes against the "clear science" on climate change.

In reality, Trump, along with EPA chief Scott Pruitt, denies the mainstream science on climate change, and has called the exhaustively documented phenomenon a "hoax."

The EPA press office then corrected the statement, noting that it got the two senators' statements mixed up, as one does when their views and party are diametrically opposed to one another.

The mistake was especially strange because Capito had been singled out for praise during the [signing ceremony](#) at the EPA on Tuesday, which brought coal miners to the agency that wrote the climate policies Trump is trying to erase.

Capito's actual statement is far more supportive: "If fully implemented, the Clean Power Plan would have completely decimated West Virginia's vital coal industry while having no meaningful climate impact," she said.

The EPA press shop apologized for the mixup. "We apologize for the error and are making sure that our process is improved as we build out our team," the statement said.

The Trump administration has proposed gutting the EPA's budget while eviscerating its ability to regulate carbon dioxide and methane emissions that are causing global warming. Huge cuts would hit the agency's science programs in particular.

Given the hostility to Pruitt within the agency, it's possible (though not likely) that the press release on Thursday was not a mixup, but rather an act of civil disobedience.

If so, more power to the bureaucrat who pulled it off.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052364>

House approves bill to overhaul science Advisory Board

By Sean Reilly 3/30/17

Legislation to revamp the membership of a key U.S. EPA advisory panel passed the House this morning, one day after the approval of a bill to limit how the agency uses science.

The "EPA Science Advisory Board Reform Act," H.R. 1431, cleared the House by a 229-193 margin. The vote closely followed party lines, with two Democrats voting yes and five Republicans opposed after a floor debate that didn't fill the allotted hour. Similar versions of the measure passed the House in 2014 and 2015, only to die in the Senate following Obama administration veto threats.

While President Trump is likely to be more receptive, continued Democratic opposition in the Senate could make it difficult for either measure to overcome the 60-vote hurdle needed to pass any contentious legislation.

Among other features, H.R. 1431 would require at least 10 percent of EPA's Science Advisory Board (SAB) members to come from state, local and tribal governments, allow industry representatives with a stake in the board's work to serve as long as any conflicts of interest are disclosed, but bar anyone currently receiving EPA grant funding. Board members would also have to undergo a "cooling-off" period under which they could not apply for EPA research funds or contracts for three years after leaving the panel. In addition, the board would have to solicit and respond to public comments on topics under review.

The legislation "ensures the best experts are free to undertake a balanced and open review of regulatory science," Rep. Frank Lucas (R-Okla.), the lead sponsor and vice chairman of the Science, Space and Technology Committee, said in opening today's debate. The fact that members may receive EPA funding creates at least the appearance of a conflict of interest, Lucas said, adding that some have taken explicit stands on issues — such as hydraulic fracturing — on which they're providing advice.

But Rep. Eddie Bernice Johnson of Texas, the Science panel's top Democrat, warned the measure was designed to "throw sand in the gears" of the advisory board process to the benefit of corporate interests. Not only would the measure limit the input of scientists, Johnson said, but

it would "restrict the ability of the board to respond to important questions and increase the influence of industry in shaping EPA policy."

Created in 1978, the board is charged with offering advice to EPA as needed. More specifically, it's also supposed to review "the quality and relevance" of the scientific and technical information used by the agency, according to its website. The panel's 47 current members mostly come from academia; their ongoing work includes "economy-wide modeling of the benefits and costs of environmental regulation" and developing an assessment framework for "biogenic carbon dioxide emissions from stationary sources."

Existing law only calls for SAB members to be qualified "by education, training, and experience to evaluate scientific and technical information on matters referred to the board." Members are appointed by the EPA administrator, meaning that recently installed chief Scott Pruitt will have considerable freedom to reshape the board on his own.

Yesterday, the House approved [H.R. 1430](#), which would bar EPA from moving ahead with new regulations drawing on science that is not "transparent or reproducible" (*E&E Daily*, March 30).

Both bills moved through the House the same week that Trump effectively dismissed mainstream climate science with the official launch of efforts to roll back the Clean Power Plan and other Obama administration efforts to curb greenhouse gas emissions.

"Less science, more pollution. That's, unbelievably, the Republican plan," Rep. Jan Schakowsky (D-Ill.) said this morning.

But to Rep. Clay Higgins (R-La.), enactment of the SAB bill would mark a welcome change from a status quo that allows EPA to set forth "ideological, biased and non-science-based rules and regulations."

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052358>

Oil lobbyist to be agency's Hill Liaison

By Kevin Bogardus 3/30/17

An oil and gas lobbyist is joining U.S. EPA as associate administrator for congressional and intergovernmental relations, according to sources.

Troy Lyons, manager of federal government affairs at Hess Corp., is expected to start next week as EPA's liaison with Congress as well as state and local governments. It's a senior leadership position that takes on even greater importance now, considering President Trump's proposed deep budget cuts for the agency that are not sitting well with several lawmakers.

Lyons spent nearly two years at Hess as a federal government affairs manager, according to his LinkedIn profile. Before that, he worked at another oil and gas giant, BP America Inc., for more than three years.

Disclosure records filed with the Senate show that he was registered to lobby for both companies, including on issues involving EPA.

Last year, Lyons, on behalf of Hess, lobbied Congress on the Bureau of Land Management and EPA's methane regulations. In 2015 — his last year at BP — Lyons was one of several lobbyists at the company listed as working on legislation dealing with EPA's ozone rules and the renewable fuel standard.

Lyons has Capitol Hill experience, as well. He served as an aide to both former Sens. Kay Bailey Hutchison (R-Texas) and George Allen (R-Va.).

In addition, he worked in the George W. Bush administration at the Small Business Administration.

Lyons graduated from Randolph-Macon College with a bachelor's degree in political science and speech communication.

Other Hess officials have joined the Trump administration. Earlier this month, Drew Maloney, formerly vice president of global government and external affairs for the company, was picked by the president to lead congressional relations at the Treasury Department (*Greenwire*, March 15).

Lobbyists for energy interests have made inroads with Trump. Michael Catanzaro joined the White House as a top energy adviser while Andrew Wheeler is expected to be picked as EPA's next deputy administrator.

E&E News

<http://www.eenews.net/greenwire/2017/03/30/stories/1060052359>

States settle with automaker, hoping to set 'precedent'

By Camille von Kaenel 3/30/17

Volkswagen AG has agreed to pay \$157.45 million to 10 U.S. states to settle environmental claims over its emissions cheating.

Since the revelation that its diesel cars polluted more than regulations allowed, the automaker has agreed to spend up to \$25 billion in the United States to buy back faulty vehicles and for civil and criminal settlements with drivers, regulators, states and dealers. While the majority of claims have been resolved, the automaker is still involved in several ongoing lawsuits.

The agreement announced today covers Connecticut, Delaware, Maine, Massachusetts, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington.

The states, called Section 177 states, have signed onto California's vehicle emissions rules

allowed by a special Clean Air Act waiver that the Trump administration may try to revoke. Most have strict requirements for electric vehicle sales. The settlement marks the first time the states have secured environmental penalties from an automaker under the state emissions rules.

"Setting this precedent is particularly vital now, when President Trump has vowed to defund federal environmental enforcement and undo federal environmental protections, which would leave states like New York and California as the first line of defense for the environment," said a statement from the office of New York Attorney General Eric Schneiderman (D). "New York will continue to enforce the tough auto emission and greenhouse gas standards established by California, and intends to oppose any effort by the federal government to roll back EPA emission standards currently in place."

Under the agreement, Volkswagen must provide three electric car models, including two electric SUVs, by 2020 in the states, effectively tripling its offering. The automaker first made that commitment to California in a separate settlement (*Climatewire*, Dec. 21, 2016). The \$157 million in environmental penalties will be split among the states.

Volkswagen said the agreement "avoids further prolonged and costly litigation as Volkswagen continues to work to earn back the trust of its customers, regulators and the public."

The automaker previously reached a \$603 million agreement with 44 states for separate environmental and consumer claims.

This month, the automaker pleaded guilty to criminal charges including fraud, obstruction of justice and falsifying statements as part of a \$4.3 billion settlement reached with the Justice Department.

Last year, it finalized a \$14.7 billion settlement with drivers and regulators that included investments in electric vehicle charging and mitigating nitrogen oxides pollution from old diesel engines. Conservative critics have sought to have Trump's EPA renegotiate that settlement, calling it an effort to promote electric vehicles that sidesteps Congress (*Climatewire*, March 27).

Politico

<http://www.politico.com/agenda/story/2017/03/the-hidden-impact-of-trumps-energy-executive-order-000384>

The hidden impact of Trump's energy executive order

By Danny Vinik 3/30/17, 1:31PM

When President Donald Trump signed his executive order on climate change Tuesday, it was the rollback of Barack Obama's signature Clean Power Plan that dominated headlines.

But to energy lawyers, a different section of the order stood out—one that so far has received little attention, but could weaken every climate-related regulation produced by the government. Trump’s order rewrites the rules for measuring the “social cost of carbon,” the crucial measuring stick that tells the government whether climate regulations are cost-effective or not.

Cost-benefit analysis is baked into nearly every new federal regulation, giving the White House both ammunition against judicial challenges and a way to sell the rules to the public. When it comes to carbon pollution, it’s particularly hard to determine what the long-term costs are: How much should we consider the “costs” of increased flooding or severe storms that might happen in the future? What about climate disasters that happen elsewhere, but might ultimately impact America?

The Obama administration created a new, administration-wide measurement of that cost, forming a high-level, interagency working group to estimate the social cost of carbon. That committee met occasionally to review the latest academic literature and models and decide whether to update its estimate. The number underpinned the Obama administration’s climate agenda, providing a scientific basis for regulations whose benefits are inherently very difficult to measure.

Trump’s executive order eliminates the working group and effectively turns over the job of cost-estimation to individual agencies. The order also scraps all the technical underpinnings for the Obama group’s work, and tells agencies to estimate carbon costs by following the guidance of a Bush-era regulatory document from 2003.

Both liberal and conservative experts agree the change could have far-reaching consequences. In effect, the order will make carbon pollution seem far less costly to society—reducing the benefits that can be ascribed to climate change regulations, and making it harder for such rules to pass a cost-benefit test. That would make it easier for the Department of Energy and Environmental Protection Agency to weaken Obama-era regulations on everything from the Clean Power Plan to mileage standards for cars and trucks to methane regulations. It could also ease approval for proposed infrastructure projects like the Keystone pipeline.

“It would have an enormous impact,” said William Yeatman, an energy expert at the free-market Competitive Enterprise Institute, which supports the changes.

Experts don’t believe the Trump administration will simply ignore the social cost of carbon in their regulatory analyses, because tossing it out of the decision-making entirely would make the rules unlikely to survive a court challenge. Instead, agencies will likely come up with their own figures, using the OMB document as a guide. That document will lead to two main changes to

the social cost of carbon. First, agencies will likely reduce their estimates of how much the future effects of lowering carbon should count in current decision-making. (In economic terms, this is known as raising the “discount rate,” or the rate at which future benefits are discounted to their value in present-day dollars.) And second, it will change whether agencies consider the global benefits of a rule, or just the domestic benefits.

Typically, agencies only look at the domestic effects of regulation. But environmentalists argue that climate change represents a special case because global warming has consequences that don’t stop at national borders. U.S. climate policies affect other countries’ policies; those countries’ actions could also benefit the U.S. “We want other people taking us into consideration when they set their climate policies, so we should be doing the same,” said Alison Cassady, director of domestic energy policy at the Center for American Progress. It’s an important question in policymaking because the social cost of carbon emissions becomes much more significant if you factor in global benefits. The Obama administration included global benefits in its calculation of the social cost of carbon—a practice that infuriated conservatives, who pointed out that the costs of carbon policies are almost entirely domestic, so agencies should only be narrowly looking at how regulations benefit the United States.

The 2003 OMB document specifically directs agencies to focus on the costs and benefits in the United States, not globally. If there are significant effects beyond the border of the United States, it says, those “should be reported separately.”

In the end, how will agencies look at the social cost of carbon under the Trump administration? Since the executive order eliminated the interagency working group, there won’t be one consistent figure; each agency will now come up with its own estimates. But two Obama-era technical documents provide a clue about the social cost of carbon under Trump. One found that replacing Obama’s preferred discount rate with a moderately higher one—a likely outcome under Trump—reduces the estimated social cost of carbon emissions by around 70 percent. Another now-rescinded document estimated that the global benefits of carbon reduction were anywhere from 4 to 14 times greater than the domestic benefits alone. If those two changes are taken together, the estimated social cost of carbon—which the Obama working group estimated at \$36 per ton of carbon emissions—could fall by over 80 percent to \$7.20 per ton. If agencies assume that the vast majority of the benefits from emissions reductions are outside of the U.S., it could possibly be as low as \$1.80 per ton. That would dramatically reduce the estimated benefits of any new carbon-reduction rule—thus making every climate-related emission restriction appear far more costly.

As an example of how it affects a real-world regulation, Cassady pointed to the 2016 methane

rule, which limited methane emissions from oil and gas operations and now is going to be reviewed by the EPA and Interior Department. With a lower social cost of carbon, she said, "it'll be easier for [EPA Administrator] Scott Pruitt to justify doing nothing, because it will be harder to show that the benefits outweigh the costs. They will have changed the math to get the result they want."

Of course, conservatives levied the exact same change against the Obama administration, and this arcane debate is all but certain to end up in the exact same place: the courthouse.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/state-bar-association-opens-investigation-into-pruitt-emails-085711>

State bar association opens investigation into Pruitt emails

By Alex Guillen 3/30/17, 1:53PM

1. The Oklahoma Bar Association has opened an investigation into EPA Administrator Scott Pruitt over his statement to Congress that he did not use his personal email address for work as the state's attorney general, an assertion his office later admitted was incorrect.

2.

However, it remains unclear whether Pruitt will face any serious consequences.

In a [letter](#) this week, the association said it has "opened this matter for investigation" and asked Pruitt to respond to the complaint. "We will then conduct whatever further investigation we feel is needed," the association wrote. Once any investigation is completed, it will go before the bar's Professional Responsibility Commission, which will decide whether to take action.

The investigation will remain "confidential," per state rules, and is "strictly limited to the ethical and professional conduct" of Pruitt, according to the bar association.

The Center for Biological Diversity and an Oklahoma law professor filed an ethical complaint with the bar association earlier this month.

Amy Atwood, a senior CBD attorney, said she is pleased with the investigation. "Lying to Congress is a serious ethical breach, and it doesn't help that Pruitt's use of private emails reflect potential collusion with the very oil and gas industry he's now supposed to be regulating," she said in a statement.

An EPA spokesman did not immediately respond to a request for comment.

InsideEPA

<https://insideepa.com/daily-news/legal-hurdles-await-trump-scraps-agency-tools-weigh-ghg-impacts>

Legal Hurdle Await As Trump Scraps Agency Tools To Weigh GHG Impacts

By Abby Smith 3/30/17

Climate policy supporters say the Trump administration and its backers face "substantial" legal hurdles as they work to scrap the Obama administration's social cost of carbon (SCC) metric and its guidance to account for climate impacts in environmental reviews, saying any retreat will bolster challenges to projects and regulations if they fail to adequately analyze such climate risks.

"Trump's actions will sow grave uncertainty in how agencies plan for changing climate dynamics . . . whether we're talking about energy production, watershed protection, or the construction of bridges, highways, power lines, dams, and other critical infrastructure," Erik Schlenker-Goodrich, executive director of the Western Environmental Law Center, said in a statement.

He said the order's requirements "will also hide the true costs of fossil fuel projects to the public," adding that environmentalists will sue if administration officials fail to ensure projects account for potential climate impacts.

“Rest assured: we will wield the full power of the law to combat the Trump order and continue our advocacy to transition away from fossil fuels and to build the resilience of our public lands, our rivers and forests, and our communities to withstand the impacts of climate change,” Schlenker-Goodrich added.

Such statements came in response to provisions in President Donald Trump's “Energy Independence” executive order, which calls for the administration to “rescind” Council on Environmental Quality's (CEQ) guidance for accounting for greenhouse gas and climate impacts in National Environmental Policy Act (NEPA) reviews.

The guidance goes “way beyond what NEPA requires,” a senior White House official says.

In addition, the guidance eliminates the SCC and related metrics for measuring the benefits of reducing methane and nitrous oxide, default values that agencies have used to justify a host of energy and environmental rules, including measures from EPA and the departments of Energy, Interior, Transportation and others.

The order directs the interagency working group that established the metrics to be “disbanded.” And Trump orders the withdrawal of six technical support documents establishing and updating the SCC and related metrics, saying they are “no longer representative of governmental policy.”

Instead, the executive order directs agencies to adhere to the Office of Management & Budget's (OMB) Circular A-4, a Bush administration document that outlines general principles for conducting regulatory cost-benefit analysis.

Conservative critics of the SCC have argued the Obama administration's metric ignores those guidelines, particularly by using a smaller discount rate to calculate the current value of future benefits and including global benefits -- both of which they say results in an overestimation of the benefits of reducing GHGs.

'Overwhelming Record'

But supporters of those policies say the Trump administration is likely to come under heavy legal fire as it attempts to downplay climate impacts and relax consideration of GHG reductions in regulatory analysis. EPA and other agencies will face challenges to regulations and other actions that fail to include such considerations, and those will likely become a venue to oppose the administration's elimination of the Obama-era policies.

“I'm sure there will be twists and turns,” but ultimately the view of several Trump administration officials downplaying or denying human-caused global warming “is not an attainable position,” one environmental attorney tells *Inside EPA*. “These guys have an overwhelming record before them, lots of work having been done. Now they're trying to turn back the clock, and it's going to be very awkward for them legally, factually and ultimately politically.”

“I think the obstacles will be substantial. They can't just pretend that these physical realities are not there,” the environmental attorney adds. “I think the view that some of the new agency heads have that climate change is not a thing is a tiny, minority view, even with industry. This is a real fringe position. A lot of industry is deeply uncomfortable with the idea they're going to pretend climate change is not real.”

The source continues: “I don't think courts are going to buy it either.”

A second environmental attorney says the administration may run into difficulties as it seeks to explain to a court why it has reverted to prior policy that in many ways has been “superseded by new scientific and economic knowledge.”

But the source adds that while it will be important for the administration to have explained its reasoning, “the judicial reaction to it will depend in no small part on who is the judge and how much deference they choose to afford to the new EPA.”

Nevertheless, prior legal precedents, particularly on the SCC, may make it difficult for the Trump administration to step away from the metric altogether.

For example, environmentalists cite language in a 2007 appellate court ruling that finds the cost of carbon reductions is “certainly not zero.”

In that case, *Center for Biological Diversity (CBD) v. National Highway Traffic Safety Administration (NHTSA)*, the U.S. Court of Appeals for the 9th Circuit remanded the Bush administration's vehicle fuel economy standards to the agency in part because it failed to monetize the benefits of GHG reductions in its cost-benefit calculations.

NHTSA had argued it did not monetize such benefits because the value of GHG reductions was too uncertain to determine, an approach the court ruled was “arbitrary and capricious.”

“NHTSA insisted at argument that it placed no value on carbon emissions reduction rather than zero value. We fail to see the difference. The value of carbon emissions reduction is nowhere accounted for in the agency's analysis, whether quantitatively or qualitatively,” the court wrote.

'Climate Change Denialism'

Observers say that ruling's precedent will likely make it difficult for the Trump administration to justify not using a metric of some kind. And while the executive order directs agencies, to the extent they must monetize GHG reductions, to use Circular A-4, that approach is likely to come under heavy scrutiny.

Even a decade ago when the scientific record was more limited and much less work had been done to determine an appropriate metric, “the courts were uncomfortable with the Bush administration's much more modulated position,” the first environmental attorney says.

And if the Trump administration were to offer a weaker SCC metric -- or account for GHG reductions in a more limited way -- it “will be hard for anyone to not see that through this lens that the administration has embraced climate change denialism,” the source adds.

The attorney says that perception impacted the court's decision in the *CBD* case to some extent, and that could be magnified in the Trump era. “There was a sense the [Bush] administration really didn't want to do anything about climate,” the source said, noting that likely “influenced the court's evaluation of” the Bush administration's explanations.

Observers also point to a 2016 ruling from the 7th Circuit, *Zero Zone, Inc., et al. v. Department of Energy (DOE), et al.*, where the court upheld the department's use of the SCC in cost-benefit analysis for an energy efficiency standard.

That ruling, which found DOE's use of the SCC reasonable and worthy of deference, will be especially significant if the Trump administration departs from the Obama administration's approach, says Denise Grab of the Institute for Policy Integrity.

In challenges to a Trump agency's analysis of GHG impacts, SCC supporters “could use the *Zero Zone* case as a contrast” to show how the Trump administration's approach “is not reasonable and rational” and “defers from the approach the court has already upheld,” she tells *Inside EPA*.

In addition, observers argue that even when the SCC is used, agencies still do their analysis subject to Circular A-4, and they say the Trump administration may find it hard to justify the document's requirement that analysis be “based on the best reasonably obtainable scientific, technical and economic information available.”

Discount Rate

Noah Kaufman of the World Resources Institute (WRI) says the Trump administration could face scrutiny as it attempts to shift some of the SCC's inputs -- such as the discount rate and the consideration of global impacts -- to relax the consideration of GHG reductions in policymaking.

“There's not one serious economist who works on climate change that thinks for

intergenerational problems like climate change a 7 percent discount rate is at all appropriate,” Kaufman says. The Obama SCC metric uses discount rates ranging from 2 to 5 percent, but conservative critics have argued Circular A-4 requires the use of a 7 percent rate.

Kaufman says it could be hard for the Trump administration to justify a 7 percent discount rate. “Presumably they could point to Circular A-4, but if they're forced to go any steps further, it will fall apart.”

The issue of global versus domestic impacts is “a little trickier,” Kaufman says, though he says many climate economists urge a global consideration because climate change is a global problem. “That's another situation where the statutory requirement could come up against what the best science and economics tells us to do.”

Kaufman says that the Trump administration cannot do irreparable harm to the SCC, as a future administration could return to using the metric consistent with “the best available science and economics.” But he notes Trump attacks on the metric will deal a blow to overall progress on climate research.

“The shame of it is” during the Obama administration “the U.S. government has been a really important and valuable tool in pushing forward our knowledge on climate science and climate economics,” Kaufman says. “While a future administration could certainly get back on that pathway, it would be a shame if we lost the research and the skill that the folks in EPA and DOE and across the government have contributed to our knowledge.”

Other observers are expressing similar concerns over the administration's decision to withdraw the NEPA guidance. “It's not enough that the president wants to bury his head in the sand when it comes to climate change; now he insists that the rest of the federal government do the same, making climate denial the official policy of the U.S. government,” Robert Verchick of the Center for Progressive Reform.

He calls the directive to stop accounting for climate impacts in federal planning the “hidden landmine” in the order, adding it “will invite costly litigation, since some federal courts require” the consideration of climate impacts under NEPA.

Nonetheless, supporters argue Trump's rescission of the GHG guide does not preclude the consideration of such impacts, and they expect individual permits that exclude it to be challenged.

Trump's order “does not remove the general duty to consider climate change impacts on federal actions,” but it “does take away modern, uniform and sophisticated tools to use in that evaluation,” said Ann Weeks of the Clean Air Task Force during a March 29 press call. -- *Abby Smith* (asmith@iwpnews.com)

Washington Examiner

https://news.google.com/news/url?sr=1&sa=t&ct2=us%2F0_0_s_1_0_t&usg=AFQjCNGGsyFFy0_NRKYRFpD_backfires-in-trying-to-praise-trumps-climate-order%2Farticle%2F2618900

EPA backfires in trying to praise Trump's climate order

By John Sicilano 3/30/17, 1:58PM

The Environmental Protection Agency tried to show praise for President Trump's climate change executive order on Thursday but instead may have done the opposite.

In an email sent out Thursday morning, attempting to show what industry groups and lawmakers are saying about Trump's action, the EPA included the remarks of a leading critic of Trump's anti-climate change efforts, Democratic Sen. Tom Carper of Delaware, instead of the remarks of one of his champions, Sen. Shelley Moore Capito, R-W.Va., from coal country, but attributed the quote to Capito.

On top of that, it was the first item in a long list called "What they are saying about President Trump's executive order on energy independence."

This is what it said:

Senator Shelly Moore Capito (W.Va)

With this executive order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible – it's irrational. Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime. With the world watching, President Trump and Administrator [Scott] Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.

The EPA scrambled about an hour later to fix the problem, releasing the same praiseworthy email minus the Carper comments with CORRECTION in the subject line.

An EPA representative apologized for the flub, according to *Politico*. Trump had continually called out to Capito using her first name to thank her for her support at the signing ceremony on Tuesday.

The Trump order rolls back former President Barack Obama's climate change agenda, which the administration framed as a victory for the U.S. coal mining industry.

The Blaze

<http://www.theblaze.com/news/2017/03/29/house-passes-bill-stopping-epa-from-using-hidden-data-when-crafting-regulation/>

House passes bill stopping EPA from using hidden data when crafting regulation

By Brandon Morse 3/29/17, 7:52PM

On Wednesday, in a 228-194 vote, the Republican-controlled House passed a bill that would prohibit the Environmental Protection Agency from crafting regulation based off of scientific data that has not been seen by the public.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, will force the EPA to use data that is publicly available when crafting regulations, potentially leaving out medical findings that are kept hidden from the public to protect patient privacy. Provisions have been set aside within the bill to redact personal information, however.

“This legislation ensures that sound science is the basis for EPA decisions and regulatory actions,” said Rep. Lamar Smith (R-Texas), chairman of the Science Committee, and author of the bill.

“The days of ‘trust-me’ science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review,” he continued. “That’s called the scientific method.”

Smith discussed how during the previous administration, the EPA would craft and enforce regulation that would be based off of data that was hidden from the general public. The Texas congressman said that he also cares about the environment, but transparency is needed in order for the science being used to impose regulation to be legitimate.

“We all care about the environment,” he said. “But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain.”

Democrats, however, are claiming that Smith’s bill will essentially cripple the EPA, and

endanger everyone. In a memo from the Democratic Staff of the Committee on Science, Space, and Technology, they argued that it “would prevent EPA from functioning effectively and using the most relevant scientific data,” and that end result would be that the “EPA’s work grinds to a halt and the health of Americans and the environment are put at risk.”

The EPA may be taking even more hits in the future, as President Donald Trump’s budget plan for 2018 has the government organization taking a 30 percent reduction in funding.

Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/epa-climate-release-tries-to-praise-trump-but-blasts-him-instead-085685>

EPA climate release tries to praise Trump but blasts him instead

By Alex Guillen 3/30/17, 11:51AM

An EPA effort to showcase praise for President Donald Trump’s climate moves went awry today — and instead accused Trump of choosing “to recklessly bury his head in the sand.”

The criticism came in a quote from Democratic Sen. Tom Carper of Delaware, which EPA inaccurately attributed to Sen. Shelley Moore Capito (R-W.Va.), a strong supporter of the coal industry and Trump’s order.

“President Trump has chosen to recklessly bury his head in the sand,” said the quote, which appeared at the top of the EPA press release’s litany of reactions to Trump’s climate order. The quote added that the order “calls into question America’s credibility,” and said the president and Administrator Scott Pruitt “have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made.”

Carper is the top Democrat on the Environment and Public Works Committee. Capito’s actual statement, of course, praised Trump and the executive order, which instructed the agency to roll back a series of former President Barack Obama’s most important climate change initiatives.

An EPA spokesman said the mix-up was a mistake. “We apologize for the error and are making sure that our process is improved as we build our team,” he said. The agency swiftly issued a

new version of the email, which also corrected the spelling of Capito's first name.

Trump specifically named Capito at the signing Tuesday at EPA headquarters in thanking various lawmakers, Cabinet members and industry leaders for their work.

“And Shelley, thank you very much also, I spotted you in the audience. Thank you,” Trump said.

EPA’s list also included praise from Kentucky Gov. Matt Bevin and West Virginia Attorney General Patrick Morrisey, as well as various industry groups, including the American Coalition for Clean Coal Electricity and the American Petroleum Institute.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/pruitt-pesticide-decision-shows-epas-new-direction-085686>

Pruitt: Pesticide decision shows EPA’s new direction

By Jenny Hopkinson 3/30/17, 11:39AM

EPA Administrator Scott Pruitt is pointing to the denial of a petition from environmentalists that sought to ban the pesticide chlorpyrifos as an example of the new direction he has set for the agency.

In remarks this morning to the National Cattlemen's Beef Association's Legislative Conference in Washington, D.C., Pruitt said he plans to lead EPA by closely following the law, restoring the rulemaking process to what he sees as its rightful place and working in conjunction with the states.

Pruitt said he denied the longstanding request from Pesticide Action Network North America and the Natural Resources Defense Council — a request that was followed by the Obama administration's finding that the pesticide could pose health risks to children — because, in his view, the petition took regulation of the pesticide out of the process that Congress instructed EPA to follow. A federal court had given EPA until the end of the week to make a decision on

the 2007 petition.

"Because that process was breached, we said no; we denied that petition," Pruitt said. "It's not going to be regulated. ... Process is going to be respected."

New York Magazine

<http://nymag.com/daily/intelligencer/2017/03/epa-chief-declines-to-ban-pesticide-linked-to-fetal-damage.html>

EPA Chief Overrides Own Scientists, Declines to Ban Pesticide Linked to Fetal Damage

By Eric Levitz 3/30/17, 10:05AM

In 2015, scientists at the Environmental Protection Agency advised the Obama administration to ban one of the nation's most popular pesticides, chlorpyrifos, after concluding that the chemical impaired fetal brain and nervous-system development. Specifically, the children of farm workers exposed to heavy doses of the product appeared to suffer aberrantly high rates of learning, memory, and behavioral problems. The chemical had already been banned for indoor use, in 2001, due to similar concerns.

But Dow Chemical, which makes chlorpyrifos, wasn't convinced. Nor were many farm groups that rely on the pesticide. And they began lobbying the Obama administration to reject the environmentalists' supposed alarmism.

Last July, an EPA scientific-review panel scrutinized the agency's research on chlorpyrifos, and identified some causes for skepticism about the conclusiveness of its findings. This led to revisions in the researchers' report. Still, as of late last year, EPA staff maintained that the chemical should be prohibited.

But the agency's new leader, Scott Pruitt, who built his national profile by suing the EPA on behalf of industrial interests, decided to err on the side of birth defects Wednesday night.

"We need to provide regulatory certainty to the thousands of American farms that rely on

chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a written statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

In rejecting the ban, Pruitt took “final agency action” on the question of chlorpyrifos’s safety, a move that suggests the EPA will not revisit the matter until 2022.

It’s worth noting that the Obama administration seems to have dragged its feet on this ban, and that there were some quibbles with the initial, underlying research within the EPA. But it is rather difficult to give Pruitt the benefit of the doubt, given the Trump administration’s broader contempt for scientific inquiry.

The day before Pruitt’s announcement, Trump issued a series of executive orders reversing Barack Obama’s Clean Power Plan, and other climate-change policies. He did this without soliciting any advice or guidance from scientists and engineers inside the White House, according to the New York Times. That same day, according to *Politico*, staffers at the Department of Energy’s climate office were told not to use the words “climate change” or “Paris Agreement” in any written memos — or else the DOE’s new chief, Rick Perry, would have a “visceral reaction.”

Meanwhile, Trump has failed to appoint anyone to the White House’s top advisory positions on technology or science. The administration’s Office of Science and Technology Policy is becoming a ghost town.

Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump’s EPA Won’t Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17, 8:33AM

President Donald Trump’s Environmental Protection Agency (EPA) rejected environmentalists’ demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA's own analysis found that "there do not appear to be risks from exposure to chlorpyrifos in food." The agency's own website says chlorpyrifos is safe for humans in "standard" amounts.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a press statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA's attempts to ban the pesticide.

"Dow AgroSciences supports U.S. Environmental Protection Agency's (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in a statement. "Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops."

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled "Protect Our Children's Brains."

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn't completed its assessment of the pesticide's effects on drinking water and that "certain science issues" regarding chlorpyrifos are "unresolved."

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, "the risks of pesticides in the diet are remote, long-term, and theoretical, and there

is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

The Hill

<http://thehill.com/policy/energy-environment/326472-house-approves-epa-science-committee-overhaul>

House approves EPA science committee overhaul

By Devin Henry 3/30/17, 10:42PM

The House on Thursday approved a bill to overhaul the Environmental Protection Agency’s (EPA) scientific advisory committee.

The legislation from Rep. Frank Lucas (R-Okla.) would change membership requirements for the EPA’s Science Advisory Board to include more industry voices, expanding financial and conflict of interest disclosure requirements and giving the public the chance to more readily comment on

the board's actions.

The bill is similar to one that passed last Congress, and it comes one day after the House approved another bill aimed at the EPA's use of science. Lucas's bill passed on a 229-193 vote.

"This is a bill that is built on the policies we should uphold regardless of which side of the political aisle we are on, or who happens to be president," Lucas said.

The bill "ensures the best experts are free to undertake a balanced and open review of regulatory science."

The EPA's Science Advisory Board reviews the scientific and technical research that goes into the agency's rulemaking process, and it advises the agency on other scientific matters.

Democrats broadly opposed Lucas's bill, saying its requirements would undermine EPA's research by allowing more industry influence over the scientific process.

Rep. Eddie Bernice Johnson (D-Texas) said the bill would restrict the agency's rulemaking by giving too much influence to regulated industries.

She contended that if the bill had been law during fights over tobacco regulations in the 1990s, "Big Tobacco likely would have succeeded in cooping the Science Advisory Board."

The bill "is designed to harm the EPA's ability to use science to make informed decisions," she said. "This is not the best interest of the American public."

Thursday's vote comes after the House passed a bill to restrict the type of science and data the EPA uses to write new regulations.

The House voted 228-194 on Wednesday to prohibit the EPA from writing rules using science that is not publicly available. That legislation is similar to measures passed in previous Congresses.

CNN

<http://www.cnn.com/2017/03/29/opinions/trump-signs-earth-death-warrant-jones/index.html>

Van Jones: Trump may have signed Earth's death warrant

By Van Jones 3/30/17, 10:31AM

As usual, Donald Trump is completely upside down on the facts.

In 2015, President Barack Obama created the Clean Power Plan to slow climate disruption. It

was the first action ever taken by the US government to cut carbon pollution from existing power plants.

And this week, with the stroke of a pen, President Trump directed the Environmental Protection Agency (EPA) to take steps to end it.

Trump may have just signed a death warrant for our planet (at least, for a planet that is liveable for humans). And the lies he told to justify it have real consequences for real Americans, here and now.

First, Trump says he wants to dismantle the Clean Power Plan because it represents what he calls "job-killing regulation." False -- limited losses in some sectors are dwarfed by gains in others.

The potential for job growth in the clean energy sector dwarfs any potential job growth in the fossil fuel economy. For example, Trump promised the Keystone XL pipeline would create 28,000 jobs when he approved the project. But he had to use a huge multiplier to get to even that low number. In fact, it would create about 3,000 temporary construction jobs and only 35 permanent jobs. That's right: 35 permanent jobs.

By comparison, in 2016 the number of jobs in solar grew 25% from the year prior, according to figures from the nonprofit Solar Foundation, while jobs in the rest of the economy had less than 2% growth. Renewable energy jobs now create jobs 12 times faster than the rest of the economy.

For Trump to ignore this fact is inexcusable and irresponsible. He's actually hurting the people he claims to help by refusing to invest in opportunities for more jobs in the booming clean energy sector.

By the way, if Trump really cares about those coal miners he invited to the signing ceremony, he should be doing something about the 20,000 who are sick, retired, and within weeks of losing their health benefits if Congress doesn't act. When will Trump call a press conference about them?

Second, Trump claims that the Clean Power Plan was an EPA overreach -- an abuse of its authority. Again, false. The plan is based on Republican President Richard Nixon's Clean Air Act. And the EPA's authority to fight climate disruption was established by a ruling of conservative Chief Justice John Roberts' Supreme Court, under President George W. Bush. In Massachusetts v. EPA (2007), five justices determined that EPA not only has the authority but also the responsibility to cut pollution if it endangers public health -- which it does.

Curbing carbon pollution -- and defending America's land, water and people from other potentially lethal threats -- is neither a liberal value nor a conservative value. Protecting Americans from climate chaos is in everyone's interest.

Third, Trump says eliminating environmental regulations will make America great again. Remember when we had burning rivers? That wasn't so great.

If we follow the Trump trajectory, we're going to be bringing smog back to American cities, accelerating asthma rates in children, putting more poison in the groundwater and costing a lot of Americans their lives.

Trump wants to focus on "job-killing regulations." We should be equally concerned about potentially child-killing de-regulation.

Government must balance the interests of people's ability to earn a living ... against their ability to actually live. Trump seems to have completely forgotten this.

For example, Kamita Gray in Brandywine, Maryland is living on the frontlines of some of the worst pollution in America. Brandywine is in Prince George's county, which has a population that is 65% African American. This community has three power plants in its backyard already. Two more are being developed. The air quality is so bad there that when the wind blows, people do not leave their homes.

It will be communities like Brandywine that are left to deal with the brunt of fossil fuel pollution from power plants in their neighborhoods. If Trump wants to make America great again, he needs to remember that Brandywine is a part of America, too.

Mother Jones

<http://www.motherjones.com/environment/2017/03/pruitts-epa-capito-carper-lol>

“Irrational,’ ‘Reckless,’ Irresponsible’: The EPA Just Accidentally Told the Truth About Trump’s Climate Plan

By Rebecca Leber 3/3/0/17, 11:06AM

On Tuesday, President Donald Trump visited the Environmental Protection Agency, where he signed an executive order dismantling key Obama-era policies aimed at fight climate change. On Thursday morning, the EPA sent out a press release highlighting some wonderful praise that Trump's order has received from groups such as the Chamber of Commerce, the American Petroleum Institute, the American Coalition for Clean Coal Electricity, and—of course—Republican politicians. But the top quote in the EPA's email, attributed to Sen. Shelley Moore Capito (R-W.Va.), had an unexpected message:

With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible—it's irrational. Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime. With the world watching, President Trump and Administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to come.

(Hat tip to Pat Ambrosio).

This is obviously not the glowing review Trump was hoping to get from a coal-state Republican senator. Alas, it appears that someone at the EPA screwed up. That statement actually comes from a Democrat, Sen. Tom Carper (Del.)—not from Capito. If the EPA press release continued to quote from Carper, this would have been the next line:

This order clearly proves that this administration is not serious about protecting jobs and our environment. As a West Virginia native, I understand the plight of coal miners in today's day and age. But the Clean Power Plan isn't the coal industry's problem—market forces are. Let's be perfectly clear: this executive order will not bring back the coal industry. It is an insult to the men and women who voted for him for Donald Trump to say otherwise.

Trump recognized Capito, the West Virginia senator, multiple times in his speech at the EPA Tuesday. He also declared that coal is clean. At the same event, Interior Secretary Ryan Zinke declared the so-called "war on coal" to be over.

The EPA has now sent out a revised version of the press release, correctly quoting Capito's praise of Trump's order. And this time, the agency even spelled her name correctly.

Update: I reached out to some environmental groups and Carper's office over email for comment.

"Senator Carper is happy to lend his words to a good cause," the senator's spokesman said.

Sierra Club Executive Director Michael Brune said, "That quote is the first true thing Scott Pruitt's office has put out yet."

"MWAHAHAH," 350.org's communications director Jamie Henn began. "The Trump Administration's actions are so outrageous and counter-intuitive that even they can't keep up with the lies that they're spinning out to the public. For once, Capito sounds like she's right on: these executive orders are reckless, irrational, and wildly damaging."

Mother Jones

<http://www.motherjones.com/environment/2017/03/trump-epa-brain-damaging-pesticide>

UPDATED: Trump's EPA Just Greenlighted a Pesticide Known to Damage Kids' Brains

By Tom Philpott 3/29/17

UPDATE (3-29-2017): EPA director Scott Pruitt signed an order denying the agency's own proposal to ban chlorpyrifos, according to a Wednesday afternoon press release. "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a written statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

By Friday, President Donald Trump's Environmental Protection Agency will have to make a momentous decision: whether to protect kids from a widely used pesticide that's known to harm their brains—or protect the interests of the chemical's maker, Dow AgroSciences.

The pesticide in question, chlorpyrifos, is a nasty piece of work. It's an organophosphate, a class of bug killers that work by "interrupting the electrochemical processes that nerves use to communicate with muscles and other nerves," as the *Pesticide Encyclopedia* puts it. Chlorpyrifos is also an endocrine disrupter, meaning it can cause "adverse developmental, reproductive, neurological, and immune effects," according to the National Institutes of Health.

Major studies from the Mount Sinai School of Medicine, the University of California-Davis, and Columbia University have found strong evidence that low doses of chlorpyrifos inhibits kids' brain development, including when exposure occurs in the womb, with effects ranging from

lower IQ to higher rates of autism. Several studies—examples [here](#), [here](#), and [here](#)—have found it in the urine of kids who live near treated fields. In 2000, the EPA [banned most home uses of the chemical](#), citing [risks to children](#).

Stephanie Engel, an epidemiologist at the University of North Carolina and a co-author of the Mount Sinai paper, says the evidence that chlorpyrifos exposure causes harm is "compelling"—and is "much stronger" even than the case against BPA (bisphenol A), the controversial plastic additive. She says babies and fetuses are particularly susceptible to damage from chlorpyrifos because they metabolize toxic chemicals more slowly than adults do. And "many adults" are susceptible, too, because they lack a gene that allows for metabolizing the chemical efficiently, Engel adds.

But even after banning chlorpyrifos from the home, the EPA allowed farms to continue spraying it. While US farmers eased up on it in recent years, [they're still using quite a bit](#), mainly on corn and soybeans in the Midwest and on fruit, vegetable, and orchard crops in Washington, California, and the Southeast. About a fifth of all the chlorpyrifos applied on US farms happens in California. [There](#), the main target crops are alfalfa, almonds, pistachios, walnuts, tomatoes, and strawberries.

In October 2015, after a review spanning more than a decade, the EPA concluded that exposure to chlorpyrifos posed an unacceptable risk to human health, both from residues on food and in drinking water, and [proposed a new rule](#) that would effectively ban farm use of it. The agency also [expressed concern](#) about "workers who mix, load and apply chlorpyrifos to agricultural and other non-residential sites and workers re-entering treated areas after application."

The EPA then dragged its feet on finalizing the rule; but in August 2016, a US Federal Appeals court [demanded](#) that a decision be made by March 31, 2017, chastising the agency for its "continued failure to respond to the pressing health concerns presented by chlorpyrifos."

A few months after that order, of course, Trump won the presidency, and so his EPA team will make the final decision on chlorpyrifos. Uh-oh. Trump [often trumpets his own hostility to regulation](#) and has backed it up by [proposing a 31 percent cut in the EPA's budget](#). Before taking office, Trump looked to Myron Ebell of the hyper-libertarian [Competitive Enterprise Institute](#) to lead the EPA's transition. Ebell focuses mainly on denying climate change and promoting fossil fuels, but as I noted in November, CEI runs a website, [SafeChemicalPolicy.org](#), that exists to downplay the health and ecological impacts of pesticides.

Trump's pick to lead the EPA, former Oklahoma Attorney General Scott Pruitt, is a non-scientist with little track record in assessing the health risks posed by chemicals. But he does hew to Trump's general hostility to regulation. At his confirmation hearings, Pruitt [couldn't name a single EPA regulation he supports](#), and he even declined to say whether he'd finalize the [EPA's proposed ban on asbestos](#).

Meanwhile, Dow and the pesticide industry trade group [CropLife America](#) are pushing the EPA to backtrack on the chlorpyrifos ban. "The court ordered EPA to make a final decision on the petition by March 31, 2017, but did not specify what that decision should be," Dow [noted](#) in a

November 10 press release urging the agency to maintain the status quo.

Dow AgroSciences' parent company, Dow Chemical, has also been buttering up Trump. The company contributed \$1 million to the president's inaugural committee, the Center for Public Integrity notes. In December, Dow Chemical Chairman and CEO Andrew Liveris attended a post-election Trump rally in the company's home state of Michigan, and used the occasion to announce plans to create 100 new jobs and bring back another 100 more from foreign subsidiaries. Around the same time, Trump named Liveris chair of the American Manufacturing Council, declaring the chemical exec would "find ways to bring industry back to America." (Dow has another reason beside chlorpyrifos' fate to get chummy with Trump: its pending mega-merger with erstwhile rival DuPont, which still has to clear Trump's Department of Justice.)

Kristin Schafer, policy director for the Pesticide Action Network, says it would be highly unusual for the EPA to backtrack on a decision to ban a chemical after so strongly signaling that it would. (PAN is one of the advocacy groups that sued the EPA way back in 2007 over its previous lack of action on chlorpyrifos.) But she added that "all bets are off with this administration."

She pointed out that the EPA and Dow have been battling over the chemical since the Clinton administration. Back in 1995, the agency fined the company \$732,000 for failing to disclose more than 100 reports of chlorpyrifos poisoning. "These reports are particularly important," the agency complained, because chemicals enter the marketplace without any human testing, and poisoning notices "may document effects not seen in animal studies, or indicate areas which warrant further research." Most of those alleged poisoning incidences involved exposure in the home—chlorpyrifos was then the most-used household and yard insect-killer. By 2000, as noted above, the EPA had seen fit to ban most home uses of the insect killer.

In an analysis of the risks posed by chlorpyrifos released in November 2016, the EPA crunched data on residues found in food and compared them to the levels at which the chemical can harm the most vulnerable populations: kids and women of child-bearing age. The results (found on page 23 of the EPA doc) are startling. Natural Resources Defense Council researchers turned them into this handy graphic:

It would be quite something for the Trump administration to dismiss such overwhelming evidence from EPA scientists and continue allowing chlorpyrifos to be sprayed on crops with few restrictions. But he has already displayed a willingness to trash the agency's rule-making process to placate his Big Ag supporters.

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NPR

<http://www.npr.org/sections/thesalt/2017/03/29/521898976/will-the-epa-reject-a-pesticide-or-its-own-scientific-evidence>

EPA Decides Not To Ban A Pesticide, Despite Its Own Evidence Of Risk

By Dan Charles 3/29/17, 7:06PM

Update 7:06 P.M. Eastern: The EPA says it's reversing course and keeping chlorpyrifos on the market.

That's despite the agency's earlier conclusion, reached during the Obama administration, that this pesticide could pose risks to consumers. It's a signal that toxic chemicals will face less restrictive regulation by the Trump administration.

In its decision, the EPA didn't exactly repudiate its earlier scientific findings. But the agency did say that there's still a lot of scientific uncertainty about the risks of chlorpyrifos, and it said that because of that uncertainty, the court had no right to set a firm deadline for a decision. A federal court had ordered the EPA to decide by midnight on Friday whether to ban chlorpyrifos. The Obama administration proposed this ban back in 2015.

The EPA says it will keep studying the chemical.

Patti Goldman, from the environmental group Earth Justice, calls the decision "unconscionable," and says that her group will fight it in court.

New EPA Administrator Scott Pruitt made his reputation opposing the agency's regulations, and many farm organizations expected him to renounce the proposed ban. But doing so would mean disregarding a substantial pile of scientific evidence that his agency has assembled on the risks of this chemical.

Our original story continues.

Farmers have been using chlorpyrifos since 1965. Most of them know it by its trade name, Lorsban. When Wesley Spurlock, a farmer in the panhandle of Texas, sees worms on his corn or aphids on his wheat, this is the chemical that he typically loads into his sprayer.

"This chemical doesn't scare us at all," he says.

He does wear special clothing to protect himself, though. Because this chemical attacks the nervous systems of insects and people. It can cause dizziness, vomiting and diarrhea. So he's careful when handling it. "You don't spill any of it. It goes into the sprayer, we don't splash it around and make a mess," he says.

If he's spraying near the house, he might tell the kids to stay inside until the job is done. "By doing all this, it's a safe product," he says. "It's doing its job and it's doing it well."

Fruit and vegetable farmers use this chemical on citrus trees, strawberries, broccoli and cauliflower. This can leave residues on those foods in the supermarket. Several environmental advocacy groups have gone to court to force the EPA to ban the use of chlorpyrifos by farmers because of the risks that the chemical poses to consumers and to people who live near fields where it's used.

"Based on the harm that this pesticide causes, the EPA cannot, consistent with the law, allow it in our food," says Patti Goldman, an attorney with the environmental advocacy group

Earthjustice.

More than a decade ago, the EPA banned the spraying of chlorpyrifos indoors to get rid of household bugs.

At that time, though, the EPA thought that use on the farm posed little risk. The agency was relying on scientific studies that directly measured the immediate effect of chlorpyrifos on the nervous system. Residues on food weren't nearly enough to keep nerves from working normally.

But then new evidence surfaced. Jim Jones, who was assistant administrator of the EPA and responsible for pesticide regulation before he left the agency in January, says the new evidence came from studies in which scientists followed hundreds of mothers and their newborn children, monitoring their exposure to lots of chemicals. One of these studies, by researchers at Columbia University, measured the levels of chlorpyrifos in blood taken from umbilical cords when babies were born.

While the study was going on, the ban on indoor uses of chlorpyrifos came into effect. So over the course of those years, scientists were able to gather data on children who had been exposed to very different levels of the pesticide.

They found that exposure to chlorpyrifos caused small but measurable differences in brain function. At age 7, the average IQ of children who had been exposed to high levels of chlorpyrifos was a few percentage points lower than children who hadn't been exposed to much of the chemical at all. Other studies showed that some people are much more vulnerable to chlorpyrifos because of their genetic makeup.

The studies suggested that this chemical was more dangerous than people had previously realized.

Jones says the EPA struggled to translate the findings of these studies into a prediction of risk from chlorpyrifos residues on food. For one thing, the agency had to come up with an estimate of how much chlorpyrifos the women had been exposed to, based on levels of chlorpyrifos in their blood.

"But once we cracked that nut, and you had the risk evaluated and in front of you, it became, in my view, a very straightforward decision, with not a lot of ambiguity in terms of what you would do," he says.

The law on pesticides is very strict: It requires "a reasonable certainty that no harm will result" to consumers or people living in the areas where pesticides are applied.

In 2015, the EPA proposed a ban on chlorpyrifos.

Dow Agrosciences, the company that sells chlorpyrifos, insists that a ban is unjustified.

Jim Aidala, a former pesticide regulator at the EPA who now works as a consultant to Dow, says that many scientists — including those on a committee that the EPA asked to look at this question — aren't convinced by the scientific methods the EPA used. "There's a lot of controversy about this," he says.

But the EPA is facing a deadline, because of legal challenges from environmental groups,

including Earthjustice, which have submitted a petition that the EPA ban chlorpyrifos. A federal judge ordered the agency to make a final decision on this petition by March 31.

"I'm waiting with bated breath for Friday, to see what they're going to go," Jones says. "I just don't know what basis they would have to deny the petition [to ban the chemical], given the vast scientific record that the EPA's got right now."

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215045&vname=dennotallissues&wsn=49950550

EPA Won't Ban Controversial Dow Pesticide

By Tiffany Stecker 3/23/17

The EPA has reversed course in its effort to restrict a widely used, insect-controlling pesticide, backpedaling on one of the Obama administration's key initiatives to lower pesticide exposure.

The Environmental Protection Agency will deny a decade-old petition from environmental groups to revoke all uses, called "tolerances," of chlorpyrifos on food, EPA Administrator Scott Pruitt announced March 29. The insecticide is an important crop protection tool for fruit, vegetable and row crop growers.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making—rather than predetermined results."

The agency released its decision two days before a court-ordered deadline to act on the 2007 petition from the Pesticide Action Network and the Natural Resources Defense Council. The Department of Justice is expected to file its response to the U.S. Court of Appeals for the Ninth Circuit by the end of the week.

Another Blow to Obama's Green Legacy

The farm and landscaping insecticide was developed by Dow AgroSciences and first registered by the EPA in 1965. Environmentalists have sought to end use of the chemical, which they say has been linked to neurodevelopmental delays in children, for decades.

In denying the petition, the EPA said it disagreed with the methodology used by the previous administration to justify what amounts to a near-ban of the chemical.

The agency issued a proposed rule to revoke the tolerances in 2015, using its authority in the

1996 Food Quality Protection Act. The agency based part of its scientific justification for doing so on epidemiological studies that measured levels of the chemical in exposed women and children.

Under former Administrator Gina McCarthy—President Obama's second nominee to run the agency—the EPA worked to solidify the scientific justification for revoking the tolerances, including a human health risk assessment that relied in part on a controversial epidemiological study from Columbia University on children's health effects.

Epidemiologists say these population studies record changes in learning and behavior that can't be traced in the rodent experiments that historically serve as the basis for the EPA's pesticide regulations. But the chemical industry argues that epidemiological studies are difficult to control, and adverse outcomes can be attributed to a range of diet, lifestyle and other environmental factors.

Dow criticized the EPA for relying specifically on an epidemiological study from Columbia University that found that chlorpyrifos affected brain development in New York City children exposed in utero. The study's data was kept confidential by the university, prompting Dow and other industry groups to ask the EPA not to rely on the observations.

The company swiftly applauded the EPA decision.

“Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety,” spokesman David Sousa said in a statement.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/epa-pursuing-mindboggling-timeline-in-wotus-rewrite-154724>

Sources: trump admin aiming for new WOTUS rule by year's end

By Annie Snider 3/30/17, 5:01AM

The Trump administration is pressing EPA to replace the Obama administration's Waters of the U.S. rule by the end of this year, according to multiple sources with knowledge of the plan — a lightning-speed timeline that legal experts say could shortcut key steps and make the effort vulnerable in court.

EPA Administrator Scott Pruitt recently convened a meeting on the future of the WOTUS rule, where he told agency water staffers to have an initial rewrite ready by this summer, according to one source with knowledge of his instructions. Agency employees have been have been telling

states, environmentalists and industry groups to expect things to move “on a very fast pace.” The source called the expectation to issue a proposed rule within a few months “mind-boggling.”

Pruitt's predecessors took a much more deliberate approach, knowing that any rule attempting to clarify the legal morass of Clean Water Act jurisdiction would almost certainly end up at Supreme Court.

The Obama administration spent years grappling with where to draw the lines, crafting a legal rationale, and building a mass of scientific and technical reports to back up their approach before ultimately proposing its rule in April 2014. EPA then took 14 months to collect and respond to more than one million public comments, meet with more than 400 outside groups, draft changes to the rule and shepherd it all through the interagency review process.

The timeline being mulled by the Trump administration would give agency staff just a few months to put the foundation of the rule in place. An EPA spokeswoman said only that “discussions are ongoing.”

Part of the reason the Obama administration took so long is because it produced lengthy supporting documents, even though most were not mandated by law. Those included a 90-page regulatory impact analysis and an exhaustive scientific report and technical support document, both of which clocked in around 400 pages each.

Trying to finish a new rule this year means the Trump administration would have to skip most of those steps, potentially making its rule more vulnerable to being overturned in court, said Patrick Parenteau, a Vermont Law School professor.

“The more they start cutting corners and not going back through the same process they did to do the [Obama administration] rule, the greater risk they’re going to be overturned,” he said.

Making EPA’s job even more difficult is the fact that the agency is being asked to base its new rule on a potentially shaky legal interpretation.

The last time the Supreme Court weighed the limits of the Clean Water Act's jurisdiction was in the 2006 case *Rapanos v. United States*, where justices failed to reach a majority decision. The late Antonin Scalia led the court's four conservative justices in a plurality opinion setting a restrictive test for waterways to fall under federal protection, while the court's four liberal justices voted for broad federal jurisdiction. Justice Anthony Kennedy, the court's traditional swing vote, joined the conservative justices in their ruling, but he wrote his own, stand-alone opinion setting a broader test that would make streams and wetlands jurisdictional if they have a "significant nexus" to larger downstream waters.

None of the nine federal appeals courts that have weighed the issue have decided that Scalia's line of reasoning would stand on its own. But President Donald Trump directed EPA to look to Scalia's opinion in his executive order requesting a WOTUS rewrite, and sources familiar with instructions to agency staffers say they've been told to rely solely on Scalia's test.

Courts have generally ruled that Kennedy's test is the one that must be followed, although a handful have concluded that if a waterway meets either the Kennedy or the Scalia test, it falls under federal power. The Obama administration wrote its rule to meet Kennedy's test, and the George W. Bush administration had also focused on Kennedy in its 2008 guidance on the topic.

Legal experts generally argue that it will take some fancy footwork for the Trump administration to argue that Scalia's test should take precedence.

But Reed Hopper, an attorney for the Pacific Legal Foundation who has successfully argued the *Rapanos* case before the Supreme Court, said that rewriting the rule doesn't have to be that complicated.

"I think there isn't going to be much of a problem: Look at the act, see what it says, recognize that there are constitutional constraints," he said. He also pointed out that the Supreme Court has overturned lower courts on several recent wetlands cases, including one he argued last year in which the justices ruled that courts can review the federal government's jurisdictional determinations.

Reed argued that EPA could quickly rewrite WOTUS if it throws enough manpower into the effort.

But that could pose a challenge, since the Trump administration has been slow to staff up. Pruitt has only a small cadre of political allies at the agency so far, and key slots in the Office of Water and General Counsel's office are sitting empty. The Army Corps of Engineers, which will need to at least supply data for the rewrite effort, is likewise without a political leader.

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The Hill

<http://thehill.com/policy/energy-environment/326465-epa-head-wont-ban-controversial-pesticide>

EPA head won't ban controversial pesticide

By Timothy Cama 3/30/17 9:31 AM

The head of the Environmental Protection Agency (EPA) on Wednesday decided against banning the use of the pesticide chlorpyrifos on fruits and vegetables.

EPA Administrator Scott Pruitt's decision represents a course reversal from the Obama administration, which proposed the ban in 2015, based on its scientific findings of neurological harm from exposure to it.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a late Wednesday statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," he said.

Pruitt's decision matches what Dow Chemical Co., which sells the pesticide under the brand name Lorsban, sought in a January letter to the agency. Dow accused the Obama EPA of short-circuiting its scientific review process for pesticides, including in areas like transparency and peer review.

Farmers use chlorpyrifos to kill insects and some plant pests on numerous crops, including some meant for human consumption. It has been in use since 1965, but most household uses were phased out in 2001.

Research in recent years has linked the pesticide to nervous system and brain problems, including lowered brain function in some children exposed to it before birth.

The EPA under Obama proposed in 2015 to ban chlorpyrifos's use on food crops, responding to a petition and lawsuit from the Natural Resources Defense Council (NRDC) and other groups.

"With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains," a coalition wrote to the agency this year.

But Dow objected, as did agricultural interests.

"EPA's proposal appears to be a retreat from its statutory obligation that, when evaluating pesticides for registration, it balances the risk of those active ingredients against their benefits to farmers specifically, and to the public generally, when they do not pose an unreasonable risk to health or the environment," the American Farm Bureau Federation told the agency.

Groups that pushed for the ban slammed Pruitt's decision

"The Trump administration is putting the needs of chemical corporations before children's health," NRDC senior scientist Miriam Rotkin-Ellman said in a statement.

"Parents shouldn't have to worry that a dangerous chemical might be lurking in the fruits and veggies they feed their kids," she said. "We will hold EPA accountable to protecting the American people from industries that can do us grave harm. The health of our children depends on it."

NRDC and its could ask the Court of Appeals for the Ninth Circuit, the court where it previously sued the EPA to force a decision, to review Pruitt's final determination.

LA Times

<http://www.latimes.com/business/la-fi-pesticide-epa-201703230-story.html>

Trump administration reverses course on nerve-agent pesticide

By Geoffrey Mohan 3/30/17, 4:00AM

The U.S. Environmental Protection Agency on Wednesday reversed an Obama administration recommendation to ban a pesticide linked to nervous system damage in children.

Newly installed EPA administrator Scott Pruitt signed an order that would allow farmers to continue using chlorpyrifos, which is sprayed on more than a dozen crops, including tree nuts, soybeans, corn, wheat, apples and citrus.

The Obama administration had announced in 2015 that the agency would adopt a "zero

tolerance” policy for residue of the chemical on food, a move that effectively would have ended its use.

“By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results,” Pruitt said of the decision.

Pruitt’s action came in response to complaints by the agricultural and chemical industries that the Obama administration had cut short a review of the scientific evidence about the chemical’s effects on humans. The administration was under pressure from an order by the U.S. 9th Circuit Court of Appeals to speed up its ruling on the safety of the chemical.

The court order sprang from lawsuits by the Pesticide Action Network and Natural Resources Defense Council, which had petitioned the EPA in 2007 to ban the chemical. Pruitt denied that petition Wednesday.

Kristin Schafer, policy director at Pesticide Action Network, accused EPA of caving to corporate pressure.

“The new administration’s agency ignored their own findings that all exposures to chlorpyrifos on foods, in drinking water, and from pesticide drift into schools, homes and playgrounds are unsafe,” Schafer said.

The U.S. Department of Agriculture praised Pruitt’s action.

“This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States,” said Sheryl Kunickis, director of the USDA’s Office of Pest Management Policy. “It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables.”

About 5 million to 10 million pounds of chlorpyrifos, manufactured by DowAgroSciences, are used annually on crops nationwide. The chemical is an organophosphate, a class of chemicals originally designed as a nerve agent weapon.

Chlorpyrifos has been banned from consumer products and residential use nationwide for more than 15 years. Several studies have suggested it can impair cognitive development in children. A UC Berkeley study found that 7-year-old children in the Salinas Valley who were exposed to high levels during pregnancy had slightly lower IQ scores than their peers. A Columbia University study showed similar effects at lower exposure.

In 2006, the EPA revised its tolerance levels for the chemical and limited the crops on which it can be applied.

In California, the Department of Pesticide Regulation restricted use of chlorpyrifos in 2015, requiring licensing, training and oversight by county agriculture commissions. It also tightened buffer zone requirements around fields where the chemical was applied, and banned its use near schools and other facilities when winds exceed 10 miles per hour.

Use of the chemical in California declined from a peak of more than 2 million pounds in 2005 to

about 1.1 million in 2012, but rose to nearly 1.5 million pounds in 2013, the last year for which complete data were available, according to the state Department of Pesticide Regulation.

Environmental activists attribute the increase to the rise in almond production, which has been increasing rapidly in counties where the chemical is most heavily applied, according to the National Agricultural Statistics Service.

More than 500,000 pounds of the chemical were applied to crops in Kern and Fresno counties in 2013, by far the biggest users of the pesticide, according to the state Department of Pesticide Regulation.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215030&vname=dennotallissues&wsn=49949150

Trump's Climate Order Didn't Touch Several Obama-Era Programs

By David Schultz 3/30/17

The Trump administration rolled back many of its predecessor's signature climate change measures with an energy-focused executive order, but the order was notably silent on several Obama-era climate programs that don't affect the energy industry.

Trump's March 28 order either rescinded or began the process of rescinding numerous regulations on power plants, oil and gas drillers, coal miners and others in the energy sector.

But his executive order left untouched several other Obama-launched initiatives meant to combat climate change. These include measures that affect the chemicals, waste management, agriculture and aviation industries, and some of these measures impose significant costs on those industries.

The fact that Trump is willing to let these Obama-era measures stand—at least for now—indicates his White House may be taking a less dogmatic stance toward climate change than one would expect, given the many statements of climate skepticism that have come from administration officials and from the president himself.

The Trump administration did not respond on the record to a request for comment for this story.

Chemicals

The executive order leaves intact the Obama administration's ban on a type of refrigerant chemical called hydrofluorocarbons, or HFCs. These chemicals were targeted in Obama's 2013 Climate Action Plan because, while they are a small contributor to climate change, they are also highly potent greenhouse gasses that trap 1,000 times more heat in the atmosphere than the same amount of carbon dioxide.

The ban's exclusion from the executive order comes as little surprise, since just weeks earlier Trump administration attorneys went to court to defend it against a legal challenge from HFC manufacturers (Mexichem Fluor Inc. v. EPA, No. 15-01328 (D.C. Cir. 2/17/17)).

David Doniger, an attorney with the Natural Resources Defense Council, said Trump's defense of his predecessor's HFC ban betrays the White House's contradictory stance toward the issue of a warming planet.

“They seemed to draw a distinction: ‘Climate change is a hoax when it involves the energy industry, but not a hoax when it involves the chemicals industry,’” Doniger said at a March 22 D.C. Bar panel discussion.

Landfills

Though Trump's executive order took aim at a number of regulations on methane emissions, it didn't address a particular regulation on methane emissions from landfills that the Environmental Protection Agency finalized last year. The waste management industry is challenging this regulation in federal court, arguing that its emissions thresholds are too difficult to meet (Nat'l Waste and Recycling Ass'n v. EPA, No. 16-01371 (D.C. Cir. 10/27/16)).

The lead plaintiffs in this case said they didn't anticipate the Trump administration to pull back this EPA landfill rule in his executive order.

“There wasn't a big expectation on our part,” Anne Germain, a director with the National Waste and Recycling Association, told Bloomberg BNA. “The president is really trying to focus [deregulation efforts] on energy production and isn't targeting methane holistically.”

Aviation

Significantly, Trump's executive order did not instruct the EPA to rescind its 2009 finding that carbon dioxide is a pollutant, a landmark document that laid the basis for nearly all of the agency's climate regulations during the Obama era.

The order also did not nullify a much narrower EPA finding from last year on the pollution effects of greenhouse gas emissions from airplanes. This finding triggers a legal requirement that the EPA establish limits on airplane emissions.

The aviation industry has come out in favor of imposing these regulations on its own planes. It wants U.S. rules on greenhouse gases to be harmonized with soon-to-be-established international standards, which the industry will have to comply with regardless of what Trump's EPA does.

Agriculture

The executive order also gave no indication that Trump will put a halt to the work federal agencies have been doing on promoting biogas generation, another of the priorities listed in

Obama's Climate Action Plan.

Since 2014, the EPA has been working with the Departments of Agriculture and Energy to help livestock farmers turn the waste from their animals into biogas fuel, rather than allowing it to decompose into climate-harming methane. A joint 2014 report from the agencies laid out a plan to promote this practice by allocating loans to farmers and grants to biogas researchers, among other measures.

Patrick Serfass, head of the trade group American Biogas Council, said his emerging industry was likely excluded from the executive order because of many other economic benefits to biogas generation, aside from reducing methane emissions.

“We don't have to talk about the climate benefits to make a really compelling point as to why it's important,” he told Bloomberg BNA. “We've stopped using our climate-related messages because the other ones are resonating more.”

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215035&vname=dennotallissues&wsn=49949500

Trump Administration Asks Court to Halt Clean Power Plan Review

By Andrew Harris and Jennifer A Dlouhy 3/30/17

President Donald Trump took yet another step toward dismantling his predecessor's climate change legacy, asking a federal appeals court halt its review of carbon-emission rules for power plants (West Virginia v. EPA, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Trump, who famously called climate change a hoax in a 2012 tweet, signed an executive order March 28 that starts unraveling a raft of rules and directives to combat climate change. That's now been followed by a bid to temporarily place on hold a 26-state suit challenging the centerpiece of President Barack Obama's environmental agenda—the Clean Power Plan—so the new administration can dismantle it ahead of a ruling on its legality.

The request is the strongest sign yet that the U.S. may back away from Obama's commitment to a 197-nation climate change accord, though the White House hasn't taken that step.

Asking the court to halt its review is the easy part. The next steps could be more difficult. Since the rule was finalized, the new administration can't kill it out right and instead must go through the rule-making process again to undo it, said Villanova University law professor Todd Aagaard. The Trump administration is arguing that the court shouldn't waste resources deciding the case, when the EPA plans to revise or undo the rule anyway.

“The case is not moot simply because EPA is considering undoing the Clean Power Plan,” he

said. "It won't be moot unless and until EPA actually finalizes a new rule to undo the plan."

The Environmental Protection Agency will need about a year to administratively remove the CPP from the federal regulatory landscape, while justifying that reversal, allowing for public comment and still meeting its Clean Air Act obligations. The result will almost certainly be challenged by the same green groups and states that initially defended the rule.

"The EPA cannot simply dismantle the Clean Power Plan and leave nothing in its place," New York Attorney General Eric Schneiderman, a Democrat, said Tuesday on behalf of 18 states that intervened in the court case in support of the rule. "This is not a situation where they can just junk the regulations."

The Obama rule was designed to limit polluting coal-fired power plants in favor of green energy, such as wind and solar. Trump's EPA Administrator, Scott Pruitt, has asked the court, which heard arguments over the plan's merits in September, to put the case on hold while his agency and the administration review it.

"The Clean Power Plan is under close scrutiny by the EPA, and the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions," the EPA said in its court filing late Tuesday.

The Republican Pruitt, while serving as Oklahoma attorney general, was one of the first officials who sued in October 2015 to strike down the former president's plan to reduce carbon emissions to 32 percent below what they were in 2005. While 27 states had been part of that effort, North Carolina—whose new governor and attorney general are both Democrats—dropped out of the case.

Not Without Risk

New York, 17 other states and the District of Columbia intervened in that suit in the plan's defense.

The Pruitt-led EPA is essentially telling the court not to bother deciding the case because the plan won't go into effect. Judges don't have to agree. Schneiderman has promised to press for a ruling, a move that is not without risk for the plan's supporters.

If the Clean Power Plan is ultimately upheld by the courts, the Trump administration would have to acknowledge that it could stick with the plan but, as a matter of policy discretion, decided not to do so, Villanova's Aagaard said.

"Of course, if either the D.C. Circuit or Supreme Court were to hold that the Clean Power Plan is invalid, EPA wouldn't even have to undertake a rule-making to kill the plan -- it would already be dead," he said.

The plan is "legally valid," Schneiderman said, and it's "extraordinarily unusual" for one party to say it doesn't want a ruling so far along in the case.

Roiled Industry

The Obama rule roiled the energy industry when it was unveiled in 2015. The plan dictates specific carbon-cutting targets based on the amount of greenhouse gases states released while generating electricity in 2012. It followed the EPA's landmark 2009 determination that greenhouse-gas emissions endanger the public's health and welfare.

Pruitt, who has also discounted the role of carbon dioxide as the main driver for climate change, helped lead the charge for states opposing the plan in arguing that its goal to shift power generation away from coal and toward cleaner sources would force the creation of a “new energy economy.”

First to sue, though, was West Virginia Attorney General Patrick Morrisey, who hailed Trump's decision to roll back the regulations. In a phone interview, Morrisey called the plan “one of the most egregious and unlawful regulations that we've seen in many many years.”

Trump campaigned on a vow to bring back coal jobs. He told a crowd in Kentucky on March 20 that the administration will turn the EPA “from a job killer into a job creator.”

The Justice Department late March 28 also asked the D.C. Circuit to halt progress in litigation over EPA's carbon standards for new power plants, which established a requirement that any new coal-fired power plant be equipped with carbon capture technology (North Dakota v. EPA, D.C. Cir., No. 15-1381, motion filed 3/28/17).

The administration's request comes about three weeks before the court is scheduled to hear oral arguments over the regulation on new power plants. The Clean Air Act required the EPA to establish standards for new power plants as a prerequisite for regulating existing plants through the Clean Power Plan.

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House Passes Bill Requiring Science in EPA Rules to Be Public

By Rachel Leven 3/30/17

A House-passed bill would require science and data used in EPA regulations or assessments to be made public.

The 228-194 vote March 29 was an unsurprising outcome, given passage of a similar bill by a 241-175 House vote last session.

Supporters of the Honest and Open New EPA Science Treatment Act of 2017 (H.R. 1430), sponsored by House Science, Space, and Technology Committee Chairman Lamar Smith (R-Texas), said it would provide transparency into science used in certain Environmental Protection Agency actions. Critics said the bill would bog down further an already slow regulatory process and block the agency from using important science in its decisions.

The bill now heads to the Senate, where new Environment and Public Works Committee Chairman John Barrasso (R-Wyo.) has indicated an openness to addressing the issue, a Barrasso spokesman said. The committee never held a hearing on last session's version of the bill, the Secret Science Reform Act of 2015 (H.R. 1030).

The measure, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, is supported by groups including the American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The House Science, Space and Technology Committee approved H.R. 1430 March 9 by a 17-12 vote along party lines. The Congressional Budget Office hasn't released a cost estimate related to the bill.

Bloomberg

<https://www.bloomberg.com/politics/articles/2017-03-29/volkswagen-says-it-has-epa-approval-to-sell-repaired-diesels>

Volkswagen Says It Has EPA Approval to Sell Repaired Diesels

By Ryan Beene 3/30/17 3:30 AM

Volkswagen AG will soon do what's been impossible since its emissions crisis began: sell diesel-powered cars in the U.S.

The company received approval from the Environmental Protection Agency for its dealers to sell 2015 model year diesels after updating the vehicles' emissions software, VW Group of America spokeswoman Jeannine Ginivan said.

The software update is part of a required emissions repair approved by the EPA and California Air Resources Board. The repair will also include changes to diesel engine hardware, but dealers do not have to wait until the repair parts become available early next year, Ginivan said.

"We are still finalizing the details of this program and will provide more information on its implementation at the appropriate time," Ginivan said in a statement.

Volkswagen admitted 18 months ago to rigging nearly 500,000 diesel cars to pass U.S. emissions tests. The Wolfsburg, Germany based company froze sales of new and certified used diesels in the U.S. while it worked with regulators on an approved fix. The company has put aside \$24 billion (22.6 billion euros) to cover costs and fines related to the scandal.

The shares were little changed at 136.50 euros at 9:19 a.m. in Frankfurt trading, bringing the decline since the scandal broke in September 2015 to about 16 percent.

Significant Milestone

Reviving diesel sales marks a significant milestone in VW's efforts to recover from the scandal and rebuild its relationship with environmental regulators. It also returns a key product to dealer showrooms that attracted a cult-like customer base and accounted for about 20 percent of the VW brand's pre-scandal sales.

Yet it's a mostly symbolic step. The sales approval only applies to about 67,000 diesels from the 2015 model, about 12,000 of which are currently in dealer inventory, Ginivan said.

An EPA spokeswoman didn't immediately return messages seeking comment.

Volkswagen has also said no new diesel models will be offered in the U.S. at least through model year 2018. The company is moving aggressively toward electric vehicles, signaling a diminishing role for diesel engines in the company's portfolio, especially in the U.S.

The program will also eventually include used 2015 diesels the company has repurchased from owners through the 2016 settlement with U.S. regulators and owners, Ginivan said. Some customers have elected to keep their cars and receive restitution and an emissions repair under the terms of its \$10 billion buyback.

While diesel engines are more fuel efficient than their gasoline counterparts and are found in about half of new passenger cars sold in Europe in part due to tax breaks, they never fully caught on in the U.S., accounting for less than three percent of deliveries.

E&E News

<http://www.eenews.net/climatewire/2017/03/30/stories/1060052328>

On balance, the world wants Trump to stay

By Jean Chemnick 3/30/17

The world is prepared to put up with quite a lot to keep the United States in the Paris climate deal.

If White House officials who want the United States to remain part of the 2015 agreement prevail in what appears to be an ongoing tug of war within the administration, the trade-off is

likely to be weaker emissions commitments and no new climate aid for the remainder of President Trump's term. Even then, the administration could make new demands in forthcoming negotiations that could complicate the delicate deal among nearly 200 nations.

Still, most climate diplomats and environmentalist observers say they would rather deal with a Trump team than lose the United States altogether.

"I don't think it would be seen as an advantage to have the United States out, if for no other reason than that countries will be very hopeful that this is a time-limited bump in the road," said former State Department Special Envoy for Climate Change Todd Stern. "And it is a lot more useful to have the U.S. still in the regime, so that when things eventually turn around in Washington, then the U.S. is there, rather than you've got to go through the whole aggravation of them not being there."

Trump this week essentially hollowed out the U.S. Paris pledge when he signed an executive order rolling back Obama-era greenhouse gas regulations that formed the basis of America's international commitments. A new target, or "nationally determined contribution" (NDC), to Paris would likely accompany any decision to stay in the deal, and analysts believe it will be an emissions range consistent with a business-as-usual scenario.

The next weeks are expected to settle whether Trump will stay or go. But a State Department team will attend the next midyear climate talks in Bonn, Germany, a first foray that might shed some light on whether the new administration would assume a role of benign neglect or of outright obstruction if it stays. Even if Trump does move to withdraw soon, the process will take four years, during which time his team could still attend talks and play an active, if diminished, role in setting the rules of the road.

Battle lines within and around the administration are not clearly drawn. Over the weekend, U.S. EPA Administrator Scott Pruitt dismissed Paris as a "bad deal" in an interview on ABC's "This Week," while EPA transition team leader Myron Ebell attacked Secretary of State Rex Tillerson as a "swamp creature" in remarks at a Washington conference for saying during his Senate confirmation process back in January that the United States should maintain a "seat at the table" on Paris.

It's unclear what role, if any, Tillerson is playing in this decision, which will ultimately be made by Trump himself, either with the usual input from advisers or without it. But Trump's daughter Ivanka Trump and son-in-law Jared Kushner were instrumental in slashing language from yesterday's executive order rolling back domestic climate regulations that would have set the wheels in motion for a withdrawal from Paris. And several members of Trump's National Security Council argue for remaining in the deal for pragmatic reasons. Senior adviser Steve Bannon does not.

Still, Stern said he assumes that if the United States remains in the deal, it will not try to ruin it from within.

"I don't think that they're going to diabolically say, 'Let's stay in so we can throw bombs,'" he said.

"A seat at the table doesn't generally mean a seat at the table with a grenade in your hand," Stern added. Still, he acknowledged, if the new negotiating team were extraordinarily

unconstructive, that might prompt some partners to wish it had just made an exit.

Should the U.S. help write the rulebook?

But a future administration might find it complicated to re-enter Paris, while an exit from the underlying U.N. Framework Convention on Climate Change (UNFCCC) would likely mean the United States would have to stay out of the deal for good. It would be very difficult for a future administration to wrangle 60 Senate votes in the future to rejoin the treaty.

And a regime without the United States is likely to be less effective in the long run.

"I can't envision a world in which it would be better for the U.S. to pull out in terms of keeping the agreement together or keeping others on board," said Kate Larsen, climate director of the Rhodium Group and a former State Department negotiator during both the George W. Bush and Obama administrations.

"If the U.S. were to pull out, you would have to believe that at some point, later in the future, when a more sympathetic president is in place, that we'd be able to either rejoin the agreement or negotiate a whole new one," she added.

Paris was the culmination of more than two decades of negotiations that eventually included 196 parties, and that included many setbacks and false starts along the way that threatened to capsize the process.

The United States was frequently a pariah in the process, but usually for arguing, across Democratic and Republican administrations alike, for provisions on transparency, common responsibility across developed and developing countries, and the avoidance of binding language that would require Senate approval for the United States to join.

If the United States were to suddenly withdraw from the process, Larsen said, "the voices for including elements that are problematic for the U.S. get stronger and ultimately win out."

If the United States is not active over the coming two years as the Paris rulebook is being negotiated and written, the next administration could return to a process that has become difficult to join.

Stern noted that the Paris accord made substantial new progress in breaking down past barriers between what the process demanded of developed and developing participants and on transparency — gains he said the United States should continue to guard in the implementation phase.

World waits, strategizes

Climate diplomats and negotiators approached for this story were generally reticent to speak on the record about the future of U.S. participation in Paris. Some worried about being seen to weigh in on domestic U.S. politics, while others feared weighting the scales toward a U.S. exit.

Officials from Europe and elsewhere say they're still assessing who their counterparts are within the Trump White House and State Department.

"It's not under discussion with key climate diplomats," said Christoph Bals of Germanwatch. "They have lots of problems at the moment to find a person in the U.S. government who has a mandate to negotiate this with them. And they are absolutely frustrated in our chancellery that they don't know who the right person [is] to negotiate those kinds of things."

Maros Sefcovic, vice president for the compact's Energy Union, did meet with White House officials earlier in the month, and German Foreign Minister Sigmar Gabriel met with Tillerson and Vice President Mike Pence in February to discuss the agenda his country has set for its presidency of the Group of 20 nations this year, which includes climate change.

German Chancellor Angela Merkel is said to have a personal stake in a strong climate outcome for the G-20, but has so far avoided putting Trump on the spot. She raised climate change during a closed-door lunch with the president during her visit to Washington earlier this month, but did not make a public statement about it. And the Germans watched as Treasury Secretary Steven Mnuchin stripped long-established language from this year's financial ministers' communiqué for the G-20 that called for the removal of trade barriers, while he banded together with Saudi Arabia's minister to cancel all reference to climate finance. Greens hope climate aid will reappear at the leader-level summit in July, together with a reaffirmation of the Paris deal, but Maeve McLynn of CAN Europe said Mnuchin's heavy-handedness did not bode well for how the United States might perform in upcoming climate talks.

"This is what I'm kind of fearing, that the U.S. will come in and not be willing to compromise on certain things," she said. Both the G-20 and the climate talks operate on consensus, and the United States plays an outsized role.

McLynn said that Europeans are dealing with the uncertainty in Washington by engaging more deeply with other countries. The 28-nation bloc could announce new bilateral efforts with China, Latin America and other nations at summits later this year, and is weighing whether to increase its commitment to climate finance in response to a retreating United States. Outreach to Canada and Mexico is also part of the strategy.

"The message we're getting is, 'Let's not focus too much on Trump and the Trump administration, but then let's start building and strengthening the alliances with the countries around the U.S.,'" said McLynn.

Foreign officials are not offering direct criticism so far of Trump's domestic climate moves, though they seem to be holding fire until the Paris announcement is out.

Jake Schmidt, international climate change director for the Natural Resources Defense Council, said Europe, small island states and other members of the so-called high ambition coalition would be unlikely to accept a weaker NDC without comment.

"Pretending like there's no blowback to changing how you act on climate change is a bit delusional," he said, predicting that a change in Paris commitment would spark a diplomatic pushback.

Dennis Clare, who has negotiated on behalf of small island states within the UNFCCC process, said a major emitter like the United States would set a dangerous precedent if it were to pare back its already-insufficient NDC, though an exit from the deal would "go one step further."

"Most countries would surely lament any diminishment of the collective global response to climate change and the increased human suffering that would cause," he said.

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052317>

Democrats press Pruitt to address conflict of interest

By Ariel Wittenberg 3/20/17

U.S. EPA Administrator Scott Pruitt hasn't responded to requests from Senate Democrats that he address an apparent conflict of interest caused by President Trump's executive order that directs the agency to review and possibly rescind the Clean Water Rule.

Environmental and Public Works Committee Democrats asked him last week to confirm that he has either recused himself from actions related to the regulation or received permission from ethics officials to remain involved in the rule review (*Greenwire*, March 21).

The letter requested a response "by no later than March 29." A Democratic aide said neither Pruitt nor EPA has responded.

EPA didn't respond to repeated requests for comment for this story.

At issue is a lawsuit Pruitt filed as Oklahoma attorney general against the Obama administration's Clean Water Rule.

The regulation, also known as the Waters of the U.S. rule, or WOTUS, aims to clarify the reach of federal regulations over wetlands and waterways under the Clean Water Act. It was strongly opposed by farmers, land developers and energy companies that said it amounted to federal overreach.

Trump's executive order directs EPA to rescind the regulation and to "promptly notify the Attorney General of the pending review" so that the Department of Justice can decide how to proceed on lawsuits filed against the litigation.

Two days after that order was signed, Pruitt himself signed a notice indicating EPA had begun its review of the regulation.

But Senate Democrats say the executive order creates a conflict of interest for Pruitt because it includes "explicit direction" regarding the lawsuit he filed as Oklahoma attorney general.

Pruitt has signed an ethics agreement stating he would seek authorization from EPA's designated ethics official to "personally and substantially" participate in "particular matters involving the specific parties in which I know the State of Oklahoma is a party or represents a party."

Pruitt also told the committee during his confirmation hearing he would recuse himself from matters related to litigation he filed as attorney general unless he had permission from ethics officials.

Senate Democrats are asking for proof Pruitt has done that.

"Although we all continue to believe," they wrote, "that you should have made more extensive recusals than the ones you committed to, the specific language in section 2(c) of the Order should have triggered even the more limited recusal policy to which you have already and repeatedly agreed."

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052312>

House OKs 'secret science' bill; advisory board bill up today

By Sean Reilly 3/30/17

The House has again passed legislation that would bar U.S. EPA from pursuing new regulations based on science that is not "transparent or reproducible," brushing aside critics' warnings that it would hamstring the agency's ability to protect public health and the environment.

The bill, [H.R. 1430](#), won approval late yesterday by a 228-194 margin after a perfunctory one-hour debate under a closed rule that barred amendments. Three Democrats voted yes; seven Republicans were opposed.

The House approved similar measures titled the "Secret Science Reform Act" in 2014 and 2015. Both then died in the Senate following Obama administration veto threats. Although the latest version, dubbed the "Honest and Open New EPA Science Treatment Act," is certain to play better with President Trump, it still faces uneven odds in the Senate, where 60 votes are needed to move legislation of any significance.

Potentially raising the bar further is a Congressional Budget Office [forecast](#) released after yesterday's vote that estimated that annual implementation costs over the next few years could range from a few million dollars to around \$100 million.

The bill, sponsored by House Science, Space and Technology Chairman Lamar Smith (R-Texas), would require online availability of the research data used in studies undergirding new regulations as a means of allowing independent analysis. "Our goal is to help advance not just any science, but the best science," Smith said during yesterday's floor debate.

As they have in the past, Smith and other Republicans portrayed the bill as an open-government measure intended to shed light on the research behind EPA rules that can sometimes carry a considerable economic wallop.

"It's like they have a little black box over there; they don't ever let anyone else look into it," said Rep. Brian Babin (R-Texas). "Show us your data."

Critics, however, see the legislation's purported purpose as anything but honest. Instead, they have argued, it would make it easier for industry to bring lawsuits against new rules, while making it harder for EPA to tap important research because the results of studies based on large data sets aren't easily reproducible.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee's ranking member, described the bill as even worse than its two predecessors and said it would stifle EPA's ability to protect public health. "Unfortunately in this case," Johnson said, "the third time is not the charm."

Democrats also questioned the value of a newly added exemption for personally identifiable and sensitive business information from the internet posting requirements, given that the data could still be obtained through a confidentiality agreement with the EPA administrator.

An even bigger question mark hovers over the bill's potential cost.

A 2015 Congressional Budget Office analysis of a similar measure pegged the annual price tag for the first couple of years at \$250 million. During yesterday's debate, Smith said that reading was a misinterpretation of the implementation requirements.

But the CBO score for H.R. 1430, released after yesterday's vote, signaled that the expense for EPA could still be substantial, even as the agency faces a 31 percent cut under Trump's proposed budget for next year.

Although the final tab would hinge in part on how much money EPA chooses to invest in "infrastructure" to make researchers' data more widely available, the overall amount could range from several million dollars per year to more than \$100 million per year "to ensure that data and other information underlying studies are publicly available in a format sufficient to allow others to substantially reproduce the results," the CBO analysis said. Based on the "minimal" approach that EPA officials say they plan to take, however, the budget office pegged total spending from 2018 through 2022 at \$5 million.

Earlier this week, Smith had predicted the implementation cost would be "minuscule" (*E&E Daily*, March 28). His legislation would cap EPA's annual spending at \$1 million, or roughly in line with what agency officials told CBO they would use.

Smith's bill is traveling in tandem with H.R. 1431, a separate measure by Rep. Frank Lucas (R-Okla.) to revamp membership requirements for EPA's Science Advisory Board. Earlier in the day, the House cleared the latter bill on a 232-188 vote for debate this morning. It will probably pass by lunchtime.

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/30/new-trailer-for-al-gores-inconvenient-truth-shows-president-trump-as-climate-change-villain/?utm_term=.775755b36688

New trailer for Al Gore's 'Inconvenient Truth' sequel shows President Trump as climate change villain

By Ben Guarino 3/30/17, 3:01AM

The trailer for “An Inconvenient Sequel: Truth to Power,” the second film in Al Gore’s franchise of climate change documentaries, depicts President Trump as an antagonist. The clip that Gore shared via Twitter on Wednesday shows the president at [an airport rally](#) held last April in Rochester, N.Y., where then-candidate Trump mocks the climate science consensus.

“It’s supposed to be 70 degrees today,” Trump says. “It’s freezing here! Speaking of global warming, where is — we need some global warming!”

As for Gore, the trailer vindicates the former vice president’s climate change predictions. Gore says that the most criticized part of 2006’s “Inconvenient Truth,” which won a [documentary feature](#) Oscar in 2007, was the notion that the World Trade Center Memorial could flood from rising sea levels and stronger storm surges. Smash cut to 2012 — “Hurricane Sandy slammed into New York City last night, flooding the World Trade Center site,” a newscaster says in the trailer.

The trailer jumps from the devastation wreaked by extreme weather events to shots of green energy infrastructure and Gore pumping the hand of Canadian Prime Minister Justin Trudeau.

And then, halfway through, the screen goes to black. Enter Trump.

The trailer showcases another Trump campaign rally speech. “It’s time to put America first,” he says. “That includes the promise to cancel billions in climate change spending.”

Trump’s statements have frequently missed the mark on climate change. In a December interview with Fox News, Trump said he was “[open-minded](#)” on the subject. But his other stances have veered from conspiracy — Trump infamously called global warming a Chinese hoax, in a Twitter post that he later shrugged off [as a joke](#) — to skepticism. He told The Washington Post editorial board in March 2016 that he was “[not a great believer](#) in man-made climate change.”

At least one of his businesses, however, acknowledges the threat posed by rising oceans; the Trump International Golf Links Ireland cited global warming in its 2016 application seeking a permit for a protective [sea wall](#).

Gore has frequently demurred from attacking Trump’s climate change views. In fact, he characterized a December meeting with Trump at Trump Tower in Manhattan as constructive. “I had a lengthy and very productive session with the president-elect. It was a sincere search for areas of common ground,” Gore said of his 90-minute lunch meeting, as The Washington Post reported [at the time](#). “I had a meeting beforehand with Ivanka Trump. The bulk of the time was with the president-elect, Donald Trump. I found it an extremely interesting conversation, and to be continued, and I’m just going to leave it at that.”

When “An Inconvenient Sequel: Truth to Power” debuted at the 2017 Sundance Film Festival in January, Variety commented on the fact that [Gore did not mention](#) Trump by name. Gore told the Sundance crowd only that, in the realm of climate change setbacks, “now we have another,” as Variety reported. Gore also opposed Trump’s decision to appoint Scott Pruitt, a critic of climate change science, to head the Environmental Protection Agency.

Al Gore meets with Donald Trump

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation "extremely interesting." (The Washington Post)

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation "extremely interesting." Former vice president Al Gore speaks to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York. (Photo: AP/The Washington Post)

In mid-March, Gore expressed optimism that Trump would not withdraw the U.S. from the 2015 Paris climate accord, an agreement in which the country would curb greenhouse gas emissions. Trump has wavered between a public declaration to "cancel" the agreement and saying he had an "open mind" on pulling out.

On the same day that Gore tweeted the new trailer, the House Science Committee held a climate change panel thick with political theater, as The Post reported, but scant by way of practical solutions. The day prior, Trump signed an executive order to boost the coal industry that also allows federal officials to disregard a previous requirement to consider climate change during decision-making processes.

Washington Post

https://www.washingtonpost.com/news/fact-checker/wp/2017/03/30/the-white-houses-claim-that-the-carbon-emissions-rule-could-cost-up-to-39-billion-a-year/?utm_term=.947656cfb127

The White House's claim that the carbon emissions rule 'could cost up to \$39 billion a year'

By Michelle Ye Hee Lee 3/30/17, 3:00AM

"The previous administration's Clean Power Plan could cost up to \$39 billion a year ... according to NERA Economic Consulting."

–White House fact sheet, March 28, 2017

President Trump has started rolling back Obama-era environmental protections, including directing federal regulators to rewrite federal rules to reduce carbon emissions.

The Clean Power Plan, a flagship environmental regulatory rule of the Obama administration, proposes to cut carbon emissions from existing power plants 30 percent below 2005 levels by 2030. It has been placed on hold while under litigation.

Proponents of the rule say it will improve public health and the United States would set an example for other countries to curb carbon emissions. Opponents say the plan will have minimal impact on the environment while driving up costs for consumers. The Fact Checker obviously takes no position on the rule.

A fact sheet about the March 28 executive order on Obama-era climate protections estimated the cost of the Clean Power Plan at up to \$39 billion. How accurate is this estimate? Who exactly is NERA Economic Consulting? And why isn't the White House using estimates by the

Energy Information Administration (EIA) or the Environmental Protection Agency?

The Facts

Studies on the cost impact of the rule are built on different sets of assumptions, making it hard to make apples-to-apples comparisons. These studies compare how the energy industry and consumers would be affected in the absence of the new carbon emissions rule.

States have wide latitude in complying with the federal rule. Costs can vary depending on state, regional or local policymakers' decisions. Emissions and power plants can cross state boundaries, so states can coordinate with each other to lower costs.

There are assumptions made about the types of actions states will take after the rule takes effect, and what role renewables and natural gas energy will play. That means there are a lot of unknowns in cost estimates. That's an important caveat.

The NERA Economic Consulting's November 2015 study that the White House cites is commissioned by the American Coalition for Clean Coal Electricity, which opposes the Clean Power Plan. The Fact Checker always warns readers to be skeptical of industry-funded research. The \$39 billion is the high end of the \$29 billion-to-\$39 billion range of potential costs on the U.S. fossil-energy sector, under one method of compliance in the emissions rule.

Critics of the study say there are key assumptions that inflate costs.

It makes conservative baseline calculations about the impact of renewable energy policies, said David G. Victor, director of the Laboratory on International Law and Regulation at University of California-San Diego. Those policies would reduce the amount of emissions even before any costs of the Clean Power Plan are incurred. NERA Economic Consulting said that the cost of renewables do not actually have a major effect on its estimates of the rule's costs.

The study relies on outdated cost figures for renewable energy and energy efficiency, according to the National Resources Defense Council, which is critical of this study. Its modeling is based on figures published by the EIA in its 2015 report, which "severely underestimates renewable growth and overestimates costs of new renewable generation," according to the environmental group, which supports the Clean Power Plan.

The study also makes different assumptions about allocations of allowance costs for the electricity companies. This may have led to higher electricity price increases compared to the assumptions in other studies, including one by the EIA. However, EIA's study is not an apples-to-apples comparison to the one by NERA Economic Consulting.

Clean energy advocates say the study ignores long-term benefits of energy efficiency programs, and that the rule could even lead to people saving money. The EPA and EIA fall somewhere in between those advocates and the study by NERA Economic Consulting; those agencies estimate that electricity prices would rise slightly at first but fall later, according to E&E News.

The EPA estimates that by 2030, the benefits of the rule (\$34 billion to \$54 billion) will outweigh the costs of complying with new regulations (\$8 billion).

The White House did not respond to our request for comment.

The Pinocchio Test

The White House used a statistic by an industry-backed study to claim that the Clean Power Plan could cost “up to \$39 billion a year.” While this wording indicates that it’s the highest end of the spectrum of costs, it creates a misleading impression that this is a definitive cost.

In reality, there are too many unknowns to cite a statistic like this with no context. The study the White House cites is based on a series of assumptions that are not comparable to ones made by the EIA, a credible government agency of career statisticians and researchers crunching data. We know the new White House isn’t a fan of government statistics produced under the previous administration, but eventually, the administration won’t be able to just rely on industry estimates and claims.

Huffington Post

http://www.huffingtonpost.com/entry/heartland-institute-climate-pack_us_58db4c63e4b05463706323d4

Climate Change-Deniers ‘Spam’ Thousands Of Teachers With Anti Global Warming Packages

By Nick Visser 3/30/17, 7:15AM

One of America’s most prominent climate-denying groups, galvanized by the Trump administration listening to their claims, has set its sights on a new target: teachers.

The Heartland Institute, a conservative think tank that’s become one of the loudest voices when it comes to climate denial, has sent more than 25,000 science teachers across the country a package of material it hopes they’ll use in the classroom, according to a report from PBS Frontline.

Alongside a note from Lennie Jarratt, the group’s project manager for transforming education, the package contains a book called *Why Scientists Disagree About Global Warming* and a 10-minute video about using their guidance.

“I’m writing to ask you to consider the possibility that the science in fact is not ‘settled,’” Jarratt says in the memo. “If that’s the case, then students would be better served by letting them know a vibrant debate is taking place among scientists on how big the human impact on climate is, and whether or not we should be worried about it.”

However, there's near universal consensus among climate researchers that the planet is warming — rapidly — and human-induced greenhouse gas emissions are the primary cause. Earth experienced its hottest year on record in 2016, and officials have warned we're running out of time to address the threat of climate change.

Jim Lakely, the Heartland Institute's director of communications, confirmed thousands of copies of the group's book have been sent out, and more are yet to come.

"The number put out by PBS Frontline might be low before it's all done. We'll see," he said in an email. "We're mailing out the material because the science is not 'settled' when it comes to what are the causes and consequences of climate change."

The packages have already drawn swift rebuke.

"It's not science, but it's dressed up to look like science," Ann Reid, the executive director of the National Center for Science Education told Frontline. "It's clearly intended to confuse teachers."

The National Council for Special Education published survey findings this month that 75 percent of public science educators devote time to teaching about climate change. But around 30 percent of the 1,500 teachers surveyed cast doubt on the cause, disputing scientific consensus about the phenomenon.

Some teachers expressed their dismay on Twitter at receiving the Heartland Institute packages:

@Matthewrcover: Received this junk in my university mailbox today. Thanks but no thanks
#HeartlandInstitute

@sustainteach: After teaching about #climatechange all day, it was kind that the Heartland Institute, an organization funded by petroleum, sent me this.

@SanRaider25: Oh look, the Heartland Institute sent me a care package. And they want my feedback. #science #ActOnClimate

@CityLightsUF: The Heartland Institute is spamming my workplace with b*****t.

Heartland has been riding high since the election of President Donald Trump, a who's called climate change a hoax invented by the Chinese. The group hosted its 12th annual conference on climate denial this month. The event drew pro-Trump billionaire Robert Mercer and his daughter Rebekah Mercer, along with Myron Ebell, the man in charge of the Trump campaign's transition at the Environmental Protection Agency.

Lakely said the group has been "meeting a demand" with the packages and that it's been "contacted by many teachers who've asked us for science-based materials that will help them tell their students the truth."

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The Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump's EPA Won't Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17 8:33 AM

President Donald Trump's Environmental Protection Agency (EPA) rejected environmentalists' demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA's own analysis found that "there do not appear to be risks from exposure to chlorpyrifos in food." The agency's own website says chlorpyrifos is safe for humans in "standard" amounts.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a press statement. "By reversing the previous Administration's steps to ban one of the most widely used

pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results.”

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA’s attempts to ban the pesticide.

“Dow AgroSciences supports U.S. Environmental Protection Agency’s (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos,” the company said in a statement. “Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops.”

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled “Protect Our Children’s Brains.”

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn’t completed its assessment of the pesticide’s effects on drinking water and that “certain science issues” regarding chlorpyrifos are “unresolved.”

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, “the risks of pesticides in the diet are remote, long-term, and theoretical, and there is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

New York Times

<https://www.nytimes.com/2017/03/29/us/politics/epa-insecticide-chlorpyrifos.html>

E.P.A. Chief, Rejecting Agency's Science, Chooses Not to Ban Insecticide

By Eric Lipton 3/29/17

WASHINGTON — Scott Pruitt, the head of the Environmental Protection Agency, moved late on Wednesday to reject the scientific conclusion of the agency's own chemical safety experts who under the Obama administration recommended that one of the nation's most widely used insecticides be permanently banned at farms nationwide because of the harm it potentially causes children and farm workers.

The ruling by Mr. Pruitt, in one of his first formal actions as the nation's top environmental official, rejected a petition filed a decade ago by two environmental groups that had asked that the agency ban all uses of chlorpyrifos. The chemical was banned in 2000 for use in most household settings, but still today is used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples.

Late last year, and based in part on research conducted at Columbia University, E.P.A. scientists concluded that exposure to the chemical that has been in use since 1965 was potentially causing significant health consequences. They included learning and memory declines, particularly among farm workers and young children who may be exposed through drinking water and other sources.

But Dow Chemical, which makes the product, along with farm groups that use it, had argued that the science demonstrating that chlorpyrifos caused such harm is inconclusive — especially when properly used to kill crop-spoiling insects.

An E.P.A. scientific review panel made up of academic experts last July also had raised questions about some of the conclusions the chemical safety staff had reached. That led the staff to revise the way it had justified its findings of harm, although the agency employees as of late last year still concluded that the chemical should be banned.

Mr. Pruitt, in an announcement issued Wednesday night, said the agency needed to study the science more.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Mr. Pruitt said in his statement. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results."

The United States Department of Agriculture, which works close with the nation's farmers,

supported Mr. Pruitt's action.

"It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation," Sheryl Kunickis, director of the U.S.D.A. Office of Pest Management Policy, said in a statement Wednesday.

Dow Agrosciences, the division that sells the product, also praised the ruling, calling it in a statement "the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops."

But Jim Jones, who ran the chemical safety unit at the E.P.A. for five years, and spent more than 20 years working there until he left the agency in January when President Trump took office, said he was disappointed by Mr. Pruitt's action.

"They are ignoring the science that is pretty solid," Mr. Jones said, adding that he believed the ruling would put farm workers and exposed children at unnecessary risk.

The ruling is, in some ways, more consequential than the higher profile move by Mr. Trump on Tuesday to order the start of rolling back Obama administration rules related to coal-burning power plants and climate change.

In rejecting the pesticide ban, Mr. Pruitt took what is known as a "final agency action" on the question of the safety and use of chlorpyrifos, suggesting that the matter would not likely be revisited until 2022, the next time the E.P.A. is formally required to re-evaluate the safety of the pesticide.

Mr. Pruitt's move was immediately condemned by environmental groups, which said it showed that the Trump administration cared more about catering to the demands of major corporate players, like Dow Chemical, than the health and safety of families nationwide.

"We have a law that requires the E.P.A. to ban pesticides that it cannot determine are safe, and the E.P.A. has repeatedly said this pesticide is not safe," said Patti Goldman, managing attorney at Earthjustice, a San Francisco-based environmental group that serves as the legal team for the Natural Resources Defense Council and the Pesticide Action Network of North America, which filed the petition in 2007 to ban the product.

The agency had been under court order to issue a ruling on the petition by Friday. The environmental groups intend to return to the Ninth Circuit Court of Appeals in San Francisco to ask judges to order the agency to "take action to protect children from this pesticide" Ms. Goldman said on Wednesday.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/29/trump-epa-declines-to-ban-pesticide-that-obama-had-proposed-outlawing/?utm_term=.f43b3a7e2977

Trump EPA declines to ban pesticide that Obama had proposed outlawing

By Brady Dennis 3/29/17, 5:20PM

The new head of the Environmental Protection Agency refused Wednesday to ban a commonly used pesticide that the Obama administration had sought to outlaw based on mounting concerns about its risks to human health.

The chemical compound chlorpyrifos, also known as Lorsban, has been used by farmers for more than a half-century to kill pests on crops including broccoli, strawberries and citrus. The EPA banned its spraying indoors to combat household bugs more than a decade ago. But only in recent years did the agency seek to ban its use in agriculture, after mounting scientific evidence that prenatal exposure can pose risks to fetal brain and nervous system development.

Under President Barack Obama, the EPA proposed in 2015 to revoke all uses of chlorpyrifos on food — a move taken in response to a petition filed by the Natural Resources Defense Council and Pesticide Action Network North America. A federal judge had given the EPA until Friday to decide whether to finalize its ban of the pesticide.

On Wednesday, EPA Administrator Scott Pruitt decided the answer would be no.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

His statement argued that the “public record lays out serious scientific concerns and substantive process gaps in the proposal.”

Sheryl Kunickis, director of the Office of Pest Management Policy at the Department of Agriculture, agreed with the decision.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world,” she said in a

statement. “This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

The chemical industry also pushed hard against a chlorpyrifos ban. Dow AgroSciences, which manufactures the pesticide, said late last year that the Obama administration’s assessment of its safety “lacks scientific rigor.” The company said it “remains confident that authorized uses of chlorpyrifos products, as directed, offer wide margins of protection for human health and safety.”

But dozens of scientific researchers, doctors and public health professionals had joined the environmental groups in urging the EPA to prohibit all use of chlorpyrifos.

“With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains,” a group of supporters wrote in a letter to the agency early this year. “We strongly urge EPA to finalize its assessment and cancel all remaining uses of chlorpyrifos as expeditiously as possible.”

Environmental activists were incensed Wednesday, saying that Pruitt had ignored substantial evidence of potential harms.

“The chance to prevent brain damage in children was a low bar for most of Scott Pruitt’s predecessors, but it apparently just wasn’t persuasive enough for an administrator who isn’t sure if banning lead from gasoline was a good idea,” Environmental Working Group president Ken Cook said in a statement. “Instead, in one of his first major decisions as head of the EPA, like a toddler running toward his parents, Pruitt leaped into the warm and waiting arms of the pesticide industry.”

InsideEPA

<https://insideepa.com/daily-news/pruitt-woos-conservatives-ghg-risk-finding-offers-no-firm-promise>

Pruitt Woos Conservatives On GHG Risk Finding But Offers No Firm Promise

By Doug Obey 3/29/17

EPA Administrator Scott Pruitt is offering assurances to his most conservative critics that he is committed to scuttling numerous Obama-era climate policies -- while leaving the door open to efforts to repeal the agency's landmark greenhouse gas endangerment finding -- after a conservative columnist called for his resignation because of a lack of action so far on the finding.

In a March 28 interview with *Breitbart* -- the hard-line conservative news outlet formerly run by White House chief strategist Steve Bannon -- Pruitt said he will eventually respond to petitions that have been filed seeking to roll back the GHG endangerment finding, the legal basis for EPA's climate rules and an effective requirement of the Supreme Court's ruling in *Massachusetts v. EPA*.

"I think that if there are petitions for reconsideration for the [endangerment finding], we'll have to address those at some point," Pruitt said in the interview. "Our objective, and our role, is to do what the law requires."

He does not mention that there are currently as many as three petitions pending at the agency to reconsider the landmark risk finding.

Pruitt's comments underscore the political and legal awkwardness of President Donald Trump's executive order to review or scrap numerous climate policies, such as EPA's Clean Power Plan, but not the endangerment finding.

Many of the administration's most conservative supporters are concerned that the order does not go far enough in calling for officials to reconsider the endangerment finding, fearing it will undercut administration efforts to rescind climate rules.

Many observers have long asserted that the Clean Air Act still obligates the agency to act on GHGs even in the absence of the regulations Trump is seeking to roll back, meaning that the conservatives' hope of scrapping the GHG risk finding might be legally infeasible.

One of those critics, *Breitbart* columnist James Delingpole [in a March 27 column](#) argued that Pruitt should resign if he cannot follow through with efforts to scrap the finding.

He cited reports that Pruitt resisted including a reference to the endangerment finding in the executive order and suggested that he may have done so because he wants to appear more moderate as he is interested in running for the Senate seat expected to be vacated by Sen. James Inhofe (R-OK).

Awkward Line

Pruitt in the interview with *Breitbart* emphasizes themes likely to appeal to a conservative audience amid an ongoing Senate confirmation battle over Trump's Supreme Court pick, defending “EPA originalism,” defined as adhering to Congress' original authorities.

Pruitt also touts plans to rein in alleged agency overreach. “We’re going to roll it back, those things that were unlawful, we’re going to roll back those things that were an overreach, we’re going to roll back the steps taken by the previous administration.”

Pruitt has walked an awkward public line on the GHG finding even while repeatedly criticizing specific Obama climate change programs, suggesting during his Senate confirmation process that getting rid of the finding is not a priority.

At the time, Pruitt did not rule out any EPA action on the issue but called the finding the “law of the land,” appearing to offer a political shield to lawmakers that they would not be branded climate skeptics simply for voting for him.

But since his confirmation, Pruitt declared in a *CNBC* interview that carbon dioxide is not a “primary contributor” to global warming, sparking widespread blowback from scientists and others and appearing to refute the EPA finding.

His *Breitbart* interview also wades into non-climate topics, including a stated goal of refocusing the agency away from climate change and on to 1,300 Superfund sites that have lingered on the agency's National Priorities List.

That goal, however, appears to clash with preliminary Trump administration budget requests that would impose a massive 31 percent cut on the agency and appears to include significant cuts to both Superfund and brownfields programs, based upon analysis by former EPA employees.

Sources outside the agency say they believe that Pruitt has successfully fought off some proposed brownfields-related cuts, but that budget threats in those areas remain. -- *Doug Obey* (dobey@iwpnews.com)

Agri-Pulse

<https://www.agri-pulse.com/articles/91113-epa-rejects-petition-to-revoke-chlorpyrifos-tolerances>

EPA rejects petition to revoke chlorpyrifos tolerances

By Steve Davies 3/29/17, 10:03PM

WASHINGTON, March 29, 2017 - The Environmental Protection Agency has decided to continue allowing the use of the insecticide chlorpyrifos, stating that the science surrounding human health effects is too uncertain to justify its own proposed ban on food tolerances.

The agency announced the decision late today, two days ahead of a court-ordered deadline. The Natural Resources Defense Council and Pesticide Action Network had petitioned the agency 10 years ago to ban Dow AgroSciences' organophosphate insecticide (tradename: Lorsban), which is used to control a variety of crop pests, including corn rootworm and soybean aphid.

The groups have argued that food residue levels are high enough to pose a risk to the developing brain and nervous system.

But EPA said in its news release that its October 2015 proposal to revoke food tolerances "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

An EPA Scientific Advisory Panel convened to examine the epidemiological data used by the agency questioned the agency's use of a Columbia University study that relied on umbilical cord blood data from pregnant women to extrapolate exposure levels for children. The SAP released its report last summer.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” EPA Administrator Scott Pruitt said. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results.”

The National Association of State Departments of Agriculture (NASDA) was quick to praise the decision.

“By maintaining the Maximum Residue Limits for chlorpyrifos, agricultural use of this important tool will continue, significant disruption of international trade is avoided, and harmonization efforts may continue globally,” NASDA President and Louisiana Commissioner of Agriculture & Forestry Mike Strain said. “As state regulatory partners with EPA, we look forward to continuing to work with the agency to ensure current and future tools are reviewed in a rigorous, scientifically sound, and transparent manner.”

USDA also was pleased. Sheryl Kunickis, director of the department’s Office of Pest Management Policy, said the decision “means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world.”

Kunickis also said it was “great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables,” and added, “We thank our colleagues at EPA for their hard work.”

Chlorpyrifos is used on more than 50 crops, including soybeans, alfalfa, wheat, citrus, fruit, tree nuts, vegetables, sugarbeets and cotton, CropLife America said in a brief filed in the 9th Circuit Court of Appeals. It is “the leading insecticide active ingredient to control a number of different insects in crops, including soybean aphids in soybeans, aphids and armyworm in alfalfa, European asparagus aphid and cutworm in asparagus, corn rootworm and lesser cornstalk borer in peanuts, and leafrollers and San Jose scale in apples.”

“The public record lays out serious scientific concerns and substantive process gaps in the proposal,” EPA said in its release. “Reliable data, overwhelming in both quantity and quality, contradicts the reliance on – and misapplication of – studies to establish the end points and conclusions used to rationalize the proposal.”

In its order denying the petition, EPA said it has “concluded that, despite several years of study, the science addressing neurodevelopmental effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos.”

The agency “has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues. As noted, Congress has provided that EPA must complete registration review by October 1, 2022.”

In the days leading up to the decision, environmental groups had mobilized to muster support for

the proposed tolerance revocation. The Environmental Working Group collected signatures for an [online petition](#), saying that "research has linked chlorpyrifos to nervous system damage, behavioral problems and lower IQ in young children whose mothers were exposed during pregnancy. In adults, low-level exposure to chlorpyrifos can cause nausea, headaches and dizziness. Farmworkers and others who are severely exposed have suffered vomiting, muscle cramps, diarrhea, blurred vision, loss of consciousness and even paralysis."

DTN

<https://www.dtnpf.com/agriculture/web/ag/news/crops/article/2017/03/30/epa-disagrees-previous-tact>

EPA: No Chlorpyrifos Ban

By Todd Neeley 3/29/17, 7:38PM

OMAHA (DTN) -- The pesticide ingredient chlorpyrifos will not be banned by the U.S. Environmental Protection Agency, according to a news release issued by the agency late Wednesday afternoon.

EPA Administrator Scott Pruitt announced the agency denied a petition filed by environmental groups to ban the pesticide outright, saying in a statement that farmers need chlorpyrifos.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making rather than predetermined results."

Chlorpyrifos is the main ingredient in Lorsban, Dow AgroSciences' organophosphate insecticide targeting pests such as soybean aphids, spider mites and corn rootworm.

Since being sworn in as EPA administrator, Pruitt has begun the process of turning back regulations created during the previous administration.

Dow AgroSciences said in a statement to DTN Wednesday evening that the company was pleased with EPA's decision.

"Dow AgroSciences supports U.S. Environmental Protection Agency's decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in its statement.

"Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops. We will continue to cooperate with EPA under the established regulatory process in its scientific review of this vital crop protection solution."

Sheryl Kunickis, director of the Office of Pest Management Policy at USDA, said in a statement it was important to keep chlorpyrifos available to farmers.

"This is a welcome decision grounded in evidence and science," she said. "It means that this important pest-management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world.

"This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States. It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables."

In a news release Wednesday evening, EPA said "the public record lays out serious scientific concerns and substantive process gaps in the proposal. Reliable data, overwhelming in both quantity and quality, contradicts the reliance on, and misapplication of, studies to establish the end points and conclusions used to rationalize the proposal."

The EPA said USDA "disagrees with the methodology" used by the previous administration.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," EPA said in its release.

"The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) also expressed concerns with regard to EPA's previous reliance on certain data the agency had used to support its proposal to ban the pesticide."

The road to the proposed chlorpyrifos ban began when the Pesticide Action Network North America and Natural Resources Defense Council filed a petition in 2007 to force EPA to take action on chlorpyrifos, based on concerns over drinking water. In June 2015, the U.S. Ninth Circuit Court of Appeals issued a ruling pressuring EPA to make a decision by Oct. 31, 2015, on whether or not it would establish food tolerances for the insecticide. EPA stated it did not have the data needed to do so and instead would pursue a ban.

Last summer, EPA asked the court for a six-month extension to take final action.

In a final order issued Aug. 12, 2016, the court ruled against the request by EPA and ordered the agency to take action by March 31, 2017.

Most recently, the EPA revised its human health risk assessment for chlorpyrifos in November 2016 to state that residues on food crops and in water are at unsafe levels.

There was concern that doing away with chlorpyrifos could at some point complicate the battle against insects, especially when growers are being encouraged to rotate chemistries to guard against insect resistance.

Corn accounts for chlorpyrifos' largest agriculture market as far as total pounds used because, overall, there are more corn acres than soybean acres, according to EPA. However, in recent years, use of chlorpyrifos has expanded in soybeans and has been on the decline in corn.

According to Dow AgroSciences' website, chlorpyrifos use in soybeans expanded from about

200,000 acres in 2004 to about 8 million acres in 2008. Dow estimated chlorpyrifos was applied to about 11% of soybean acres planted in 2008.

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-epa-returning-to-using-sound-science-on-pesticide-ban-reversal/article/2618829>

Pruitt: EPA 'returning to using sound science' on pesticide ban reversal

By John Siciliano 3/29/17 8:05 PM

Environmental Protection Agency chief Scott Pruitt slammed the brakes on an environmentalists' push to ban a commonly used pesticide, saying the decision marks the return of sound science to the agency.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," Pruitt said on Wednesday in announcing that he is terminating the proceedings to ban the pesticide chlorpyrifos.

He said the decision maintains "regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment."

The large environmental activist group Natural Resources Defense Council had petitioned that the chemical be banned from use in the United States. The Obama EPA took up the petition in October 2015 and was in the middle of finalizing a ban on the substance when the Trump administration took the reins of government in January.

Pruitt pointed out that the public record showed "serious scientific concerns and substantive process gaps in the proposal," making the previous administration proposed action unreliable.

EPA said in a release that the U.S. Agriculture Department disagreed with the scientific methodology the Obama administration used in making its determination.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," it said. "The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel also expressed concerns with regard to EPA's previous reliance on certain data the Agency had used to support its proposal to ban the pesticide."

The Agriculture Department welcomed EPA's decision, saying it will prevent major disruptions for farmers trying to find a replacement for the pesticide.

"It is also great news for consumers, who will continue to have access to a full range of both

domestic and imported fruits and vegetables. We thank our colleagues at EPA for their hard work," said Sheryl Kunicki, the agency's director of pesticide control.

AP

http://hosted.ap.org/dynamic/stories/U/US_ENVIRONMENTALISTS_CLIMATE_PLAN?SITE=AP&SECTION=

Environmental groups file lawsuit over Trump climate actions

By Tammy Webber and Matthew Brown 3/29/17 6:20 PM

CHICAGO (AP) -- Environmental groups that vowed to fight President Donald Trump's efforts to roll back his predecessor's plans to curb global warming made good on their promise Wednesday, teaming up with an American Indian tribe to ask a federal court to block an order that lifts restrictions on coal sales from federal lands.

The Interior Department last year placed a moratorium on new coal leases on federal lands to review the climate change impacts of burning the fuel and whether taxpayers were getting a fair return. But Trump on Tuesday signed a sweeping executive order that included lifting the moratorium, and also initiated a review of former President Barack Obama's signature plan to restrict greenhouse gas emissions from coal-fired power plants.

Environmentalists say lifting the moratorium will worsen climate change and allow coal to be sold for unfairly low prices.

"It's really just a hail Mary to a dying industry," said Jenny Harbine, an Earthjustice attorney who filed the lawsuit in U.S. District Court in Montana on behalf of the Northern Cheyenne Tribe, Sierra Club, and Center for Biological Diversity.

The White House did not immediately respond to an email seeking comment on the lawsuit. The Department of Justice declined comment.

Environmental groups have been preparing for months to fight the Trump administration's environmental rollbacks, including by hiring more lawyers and raising money. Trump, who has called global warming a "hoax" invented by the Chinese, said during his campaign that he would kill Obama's climate plans and bring back coal jobs.

Advocates said they also will work to mobilize public opposition to the executive order, saying they expect a backlash from Americans who worry about climate change.

"This is not what most people elected Trump to do," said David Goldston, director of government affairs at the Natural Resources Defense Council. "Poll after poll shows that the public supports climate action."

A poll released in September found 71 percent of Americans want the U.S. government to do something about global warming, including 6 percent who think the government should act even though they are not sure that climate change is happening. That poll, which also found most Americans are willing to pay a little more each month to fight global warming, was conducted by The Associated Press-NORC Center for Public Affairs Research and the Energy Policy Institute at the University of Chicago.

While Republicans have blamed Obama-era environmental regulations for the loss of coal jobs, federal data show that U.S. mines have been losing jobs for decades because of automation and competition from natural gas; solar panels and wind turbines now can produce emissions-free electricity cheaper than burning coal.

But many people in coal country are counting on the jobs that Trump has promised, and industry advocates praised his orders.

"These executive actions are a welcome departure from the previous administration's strategy of making energy more expensive through costly, job-killing regulations that choked our economy," said U.S. Chamber of Commerce President Thomas J. Donohue.

Trump's order also will initiate a review of efforts to reduce methane emissions in oil and natural gas production, and will rescind Obama-era actions that addressed climate change and national security and efforts to prepare the country for the impacts of climate change. The administration still is deciding whether to withdraw from the Paris Agreement on climate change.

And on Wednesday, the administration asked a federal appeals court to postpone a ruling on lawsuits over the Clean Power Plan, the Obama initiative to limit carbon from power plants, saying it could be changed or rescinded.

A coalition of 16 states and the District of Columbia said they will oppose any effort to withdraw the plan or seek dismissal of a pending legal case, while environmental advocates said they're also ready to step in to defend environmental laws if the U.S. government does not.

"The president doesn't get to simply rewrite safeguards; they have to ... prove the changes are in line with the law and science," said the NRDC's Goldston. "I think that's going to be a high hurdle for them."

Environmentalists say Trump's actions will put the U.S. at a competitive disadvantage to other countries that are embracing clean energy, which they say could create thousands of new jobs.

Even so, they believe efforts to revive coal ultimately will fail because many states and industries already have been switching to renewable energy or natural gas.

"Those decisions are being made at the state level and plant by plant," said Earthjustice President Trip Van Noppen, who said his group is "continuing to work aggressively to retire dirty coal plants."

"Coal is not coming back," Van Noppen added. "While the president is taking big splashy action, he is actually doomed to fail."

AP

http://hosted.ap.org/dynamic/stories/U/US_CONGRESS_EPA?SITE=AP&SECTION=HOME&TEMPLATE=D

House approves bill to force public release of EPA science

3/29/17 5:56 PM

WASHINGTON (AP) -- House Republicans are taking aim at the Environmental Protection Agency, targeting the way officials use science to develop new regulations.

A bill approved Wednesday by the GOP-controlled House would require that data used to support new regulations to protect human health and the environment be released to the public.

Rep. Lamar Smith, R-Texas, said "the days of 'trust me' science are over," adding that the House bill would restore confidence in the EPA's decision-making process.

Connecticut Rep. Elizabeth Esty and other Democrats said the bill would cripple EPA's ability to conduct scientific research based on confidential medical information and risks privacy violations by exposing sensitive patient data.

The bill was approved 228-194 and now goes to the Senate.

Reuters

<http://www.reuters.com/article/us-usa-pesticide-epa-idUSKBN17039F>

U.S. EPA denies petition to ban pesticide chlorpyrifos

3/29/17 7:55 PM

The U.S. Environmental Protection Agency said on Wednesday it had denied a petition by environmental groups that sought to ban the agricultural pesticide chlorpyrifos.

In October 2015, the Obama administration proposed to revoke all food residue tolerances for chlorpyrifos, an active ingredient in insecticides. The proposal was issued in response to a petition from the Natural Resources Defense Council and Pesticide Action Network North America, the EPA said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," EPA Administrator Scott Pruitt said in the statement.

Reuters

<http://www.reuters.com/article/us-volkswagen-emissions-idUSKBN17102C>

Volkswagen says U.S. approves sale of modified diesel vehicles

By David Shepardson 3/30/17 9:59 PM

Volkswagen AG (VOWG_p.DE) said the U.S. Environmental Protection Agency has approved its request to sell up to 67,000 diesel vehicles from the 2015 model year, including about 12,000 currently in dealer inventory with approved emissions modifications.

The vehicles in inventory were held when the company issued a stop sale in September 2015, Volkswagen spokeswoman Jeannine Ginivan told Reuters.

Ginivan said the company was finalizing details of the program.

The EPA approved a fix for about 70,000 Volkswagen diesel vehicles in January.

An EPA spokeswoman declined to comment on the matter.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-29/trump-s-coal-revival-will-make-it-harder-to-breathe>

Trump's Coal Revival Will Make It Harder to Breathe

By David Shipley 3/29/17 5:06 PM

President Donald Trump's effort to prop up the coal industry will not, over the long run, succeed -- the energy market will make sure of that. But it could impede America's progress toward stabilizing the climate, and it will certainly harm public health.

Burning coal, after all, releases a lot more bad stuff into the air than just carbon dioxide. There's also mercury, which makes its way into rivers and streams, where it's eaten by fish and, in turn, by people -- poisoning brains and nervous systems, especially those of developing fetuses.

And then there's sulfur dioxide, nitrogen oxide, any number of other volatile compounds, and particles of metal and chemicals. Aloft, this mess combines with sunlight to form smog. More than 7,500 Americans die from breathing it every year.

The Clean Power Plan -- an initiative of former President Barack Obama, and the principal target of Trump's efforts -- would have prevented as many as 3,600 premature deaths a year by 2030, according to the Environmental Protection Agency. That plan is now tied up in litigation, but Trump proposes to do away with it altogether.

It's not clear that he can, because it will require making a reasonable argument for why the EPA should suddenly stop regulating greenhouse gases. But it's a bad idea even to try.

Coal power is already dying of other causes, including the Sierra Club's Beyond Coal campaign effort (funded by Michael R. Bloomberg) to close coal-fired energy plants, and coal's failure lately to stay competitive with natural gas and even wind and solar power.

With his executive order doing away with most of the Obama administration's efforts to discourage coal use, Trump may be able to slow coal's slide. But he can't return it to its former status as America's main power source. And, because of increasing automation, he won't save coal-mining jobs. Even judged by the claims Trump makes for it, this policy is poised to accomplish nothing at all.

The Hill

<http://thehill.com/policy/energy-environment/326380-house-votes-to-restrict-epas-use-of-science>

House votes to restrict EPA's use of science

By Timothy Cama 3/29/17 4:57 PM

The House voted Wednesday to restrict the kind of scientific studies and data that the Environmental Protection Agency (EPA) can use to justify new regulations.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, passed 228-194. It would prohibit the EPA from writing any regulation that uses science that is not publicly available.

It's the latest push by House Republicans to clamp down on what they say has turned into an out-of-control administrative state that enforces expensive, unworkable regulations that are not scientifically sound.

Even with President Trump in the White House, the GOP feels it's important to make lasting changes to how regulations are written and justified.

The House earlier this year passed a pair of bills to rein in regulations across government — the Regulations from the Executive in Need of Scrutiny (REINS) Act and the Regulatory Accountability Act.

But Democrats, environmentalists and health advocates say the HONEST Act is intended to handcuff the EPA. They say it would irresponsibly leave the EPA unable to write important regulatory protections, since the agency might not have the ability to release some parts of the scientific data underpinning them.

The HONEST Act is similar to the Secret Science Act, which leaders in the House Science Committee sponsored in previous congresses and got passed.

“This legislation ensures that sound science is the basis for EPA decisions and regulatory actions,” Rep. Lamar Smith (R-Texas), chairman of the Science Committee, said on the House floor Wednesday.

“The days of ‘trust-me’ science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review,” he said. “That’s called the scientific method.”

Smith framed his bill as an extension of the highly-regarded quest to use the best science to inform regulators.

He said the EPA — particularly under former President Obama — often hid the data it used in regulations, preventing the public and peer scrutiny that helps ensure the science is the best available.

“We all care about the environment,” he said. “But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain.”

The bill would also require that any scientific studies be replicable, and allow anyone who signs a confidentiality agreement to view redacted personal or trade information in data.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee’s top Democrat, slammed her GOP colleagues for what she called a “misguided” effort to stop sensible EPA regulations.

She denied that the EPA is overly secretive with its science, saying it often doesn’t own the information and has no right to release it.

“The secret science bills the Republicans tried to enact over the previous two congresses were insidious bills, designed from the outset to prevent EPA from using the best available science to meet its obligations under the law. Those bills were constructed to hamstring the ability of EPA to do about anything to protect the American public,” she said.

The latest iteration adds the redactions and the ability to view redacted information, which

Johnson called “a Pandora’s Box, which could have untold consequences for the EPA, industry and the general public,” including restricting the EPA’s ability to gather information.

“In reality, this bill isn’t about science. It’s about undermining public health and the environment,” she said.

Republicans on the Science Committee passed the bill earlier this month, alongside another bill to reform the EPA’s Science Advisory Committee. The advisory panel would be required to have geographic diversity and representatives from certain stakeholder groups.

The full House is likely to consider that bill soon.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/epa-denies-chlorpyrifos-petition-085664>

EPA denies chlorpyrifos petition, scrapping Obama era finding of health risks

By Jenny Hopkinson 3/29/17, 7:51PM

The EPA has denied a petition from environmentalists calling for a ban on the pesticide chlorpyrifos, bucking the Obama administration's findings that the chemical poses health risks.

In a notice posted to its website Wednesday evening, the agency says it will address the questions raised in the petition during a broader review of the pesticide that it expects to finish in 2022. That review will consider the concerns about potential neurodevelopmental toxicity in children that were raised in the 2007 petition from the Pesticide Action Network North America and the Natural Resources Defense Council.

The decision is a reversal from a November 2016 proposal from the EPA under then-President Barack Obama that called for revoking the pesticide's permitted tolerances — the amount of residue that can be found on crops and produce — which would have effectively banned chlorpyrifos in agricultural uses. The agency was under a court-ordered deadline to respond to the petition by Friday.

"Despite several years of study, the science addressing neurodevelopmental effects remains unresolved," EPA wrote in the notice. It said that "further evaluation of the science during the

remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos."

The decision added that "EPA has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues."

InsideEPA

<https://insideepa.com/daily-news/epa-weighs-tapping-superfund-site-accounts-offset-fy18-budget-cuts>

EPA Weighs Tapping Superfund 'Site' Accounts To Offset FY18 Budget Cuts

By Suzanne Yohannan 3/29/17

EPA officials are considering offsetting massive proposed cuts to the Superfund cleanup program in fiscal year 2018 by borrowing from "special accounts" -- site-specific accounts funded from settlements with responsible parties -- to offset any cuts and apply the money more broadly to pay for cleanup needs in the coming year.

EPA's acting waste chief Barry Breen told a Senate panel hearing March 29 on cleaning up Cold War legacy sites that the agency is "looking for ways we can go deeper into using accounts that the Treasury Department has allowed us to set up."

"These are interest-bearing savings accounts with the U.S. Treasury where we have put money that defendants have given us we've deposited there and we can draw on," he said in response to a question from Sen. Mike Rounds (R-SD).

Breen said the agency is eyeing the approach because Congress has labeled Superfund "no-year money," noting that the agency does not have to spend all that it is given in a particular year. "So we can look to prior years' funding in order to fund needs in future years," he said.

He added that EPA will also “be looking for efficiencies administratively, efficiencies in the way we move funding among accounts, and more, in order to get as much progress for the public as we can.”

While it is not clear how the agency plans to repay any funds it taps, advancing the approach may be crucial for Administrator Scott Pruitt, who has pledged to speed cleanups and delist sites from the National Priorities List. But he may be stymied by White House plans to slash \$330 million, or 30 percent, from Superfund cleanup spending in FY18.

The administration has also proposed to cut \$30 million from the \$500 million the program was slated to receive in FY17, saying the additional cuts “will ease the program into further reductions in FY 2018.”

Given such cuts, the special accounts could prove to be a significant source of funds. A 2009 report from EPA's Office of Inspector General (OIG) said at that time there was a surplus of \$1.1 billion spread over 819 special accounts.

Sources now say the surpluses may be even larger. For instance one account alone, stemming from the Obama administration's settlement with Anadarko Petroleum Corp., includes more than \$1 billion intended to address abandoned uranium mining sites on tribal land.

Special Accounts

But the plan to tap funds from the special accounts is drawing mixed reviews from attorneys and some private parties.

One attorney questions whether taking money dedicated to a particular site through a special account and using it for other sites would be a breach of contract, or in effect violate specific settlement terms. Special accounts “have been able to insulate these sites from the vagaries of the budgetary process,” the attorney says.

The attorney says the goal is to raid special accounts and move that money over to the Superfund trust fund, which would allow for the administration to request lower budgets from congressional appropriators. "It takes away money dedicated for sites that would not be available for the [Superfund] trust fund," the source says.

An industry source downplayed such concerns but nevertheless acknowledged potential "risk" that the money would not be easily repaid if the budget were not to stabilize in future years.

"It's an accounting matter, not a welching on the deal matter," the source says. The money could be used now, with the understanding that it will not void future obligations by EPA to repay accounts from which it has borrowed money. This source says that obviously this could not be done every year because of the risks of being unable to pay back the accounts.

The industry source concedes EPA's approach assumes that the budget will become more stable over time so the funds can be repaid, but that there is a risk with taking this position because EPA's budget may not be restored. The source says EPA is probably "making a reasonable risk calculation."

Cleanup Appropriations

Superfund special accounts are separate from the appropriations EPA receives for the cleanup program. Funds appropriated by Congress are dedicated to fund-lead site cleanups, removal actions, pre-remedial work and personnel, the attorney says.

Superfund special accounts, by contrast, are often set up in response to court-sanctioned settlement agreements, where settlement monies from potentially responsible parties (PRPs) are placed into a special account, to be drawn from for cleanup at the specific site for which the PRPs were liable, according to sources familiar with the mechanism.

Section 122(b)(3) under the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) authorizes EPA to retain and use settlement funds to address cleanups specified in the settlement agreement, EPA's OIG says in the 2009 report on the topic.

It notes that the agency places these funds in interest-bearing, site-specific accounts known as "special accounts."

For instance, these can include situations where smaller contributors at a site cash out and settle with EPA for their share of cleanup costs, according to an industry source. The money is then put into a special account.

The major PRPs at the site then perform 100 percent of the cleanup, and are supposed to be reimbursed from the account for the portion of cleanup for which they were not responsible, although EPA has often been slow to reimburse due to claims of further cleanup requirements at the specific site, the industry source says.

But the accounts and EPA's handling of them has come in for criticism. For example, the OIG has pressed EPA to "reclassify" at least some special account funds -- specifically those the agency held as "reserves" -- to support other priority sites, particularly sites for which human exposure is not under control.

In the 2009 report, the OIG sought improvements to the agency's handling of special accounts, saying its uncoordinated approach "led to missed opportunities to fund needed Superfund cleanups" and previously had recommended that \$59 million of "idle special account funds be reclassified or transferred" to the Superfund trust fund.

'External Audit'

The accounts have also drawn criticisms from top former Trump transition team officials, who are urging the administration to tap the funds.

"EPA should review the Superfund special accounts and probably then commission an external

audit,” Myron Ebell, who led the Trump transition team at EPA, told *Inside EPA*. Ebell, who has now returned to the free-market Competitive Enterprise Institute, said he does not know Pruitt’s views on the matter or what EPA is planning.

Ebell had previously told the *Daily Caller*, a conservative news organization, in 2016 that the special accounts are “the very definition of an out-of-control agency, if they can raise their own money and not have to go to Congress to have it appropriated.”

The news outlet had labeled the accounts “akin to slush funds,” which may have been the impetus for the Trump beachhead team to collect information on the accounts from EPA staff during the transition, informed sources say.

Despite such criticism, the attorney says the site-specific accounts have provided benefits. In addition to funding cleanups, the special accounts have been used to pay for EPA employees. These employees would likely have to be let go, while cleanup at the special account sites “could slow depending on how much money is made available to the site from the trust [fund] and who is doing the cleanup” -- whether EPA or PRPs.

This source believes that sites where PRPs are responsible for conducting cleanups may not be affected because money from settlements with smaller PRP contributors is being used to reduce the liability of PRPs performing the full cleanup. But this source foresees problems at sites where EPA is performing the work, paid for by PRPs into a settlement special account. If the money is transferred, then EPA will not be able to pay the cleanup contractors, the source says. -- Suzanne Yohannan (syohannan@iwpnews.com)

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Huffington Post

http://www.huffingtonpost.com/entry/epa-air-quality-studies_us_58dc3a27e4b08194e3b71ab3

Top Scientists Defense EPA Air Pollution Studies As Politicians Attack Science

By Alexander C Kaufman 3/29/17, 7:39PM

Over a year ago, the Environmental Protection Agency asked the country’s top scientific body to pore over six years of studies into how air pollution affects human health. It was a move meant to quell critics who questioned the safety of conducting such research.

The National Academies of Sciences, Engineering, and Medicine finally released its findings on Tuesday, offering a resounding endorsement of the EPA’s protocol for conducting tests on human subjects, along with a few suggestions on how to make the tests safer.

The 159-page report makes for humdrum reading, but its timing injects the analysis with a sense of urgency. Lawmakers emboldened by the Trump administration's assault on environmental regulations have moved to change the way science is used to draft policy to open the door to more industry-friendly or ideologically driven research.

Last month, the House Committee on Science, Space and Technology invited a coal lawyer, a chemical industry lobbyist and a libertarian scholar who has accused the EPA of “regulatory terrorism” to testify alongside a lone advocate for science as witnesses before a congressional hearing titled “Making EPA Great Again.” On Tuesday, the committee’s chairman, Rep. Lamar Smith (R-Texas), convened another hearing, “Climate Science: Assumptions, Policy Implications, and the Scientific Method,” will “examine the scientific method and process as it relates to climate change” and “focus on the underlying science that helps inform policy decisions,” according to a hearing charter. To do that, Smith fleshed out his four-person panel with a trio of prominent, like-minded climate change skeptics and attacked the credibility of Science magazine.

The report released Tuesday assesses the treatment of more than 800 participants across 21 studies the EPA conducted from 2009 to 2016, and how that research influenced policies to protect the public from toxic air pollution. But the takeaway can be applied to the agency’s overall use of science in rule-making, according to Robert Hiatt, chair of the epidemiology and biostatistics department at the University of California, San Francisco.

“The studies the EPA conducts are valuable,” Hiatt, the report’s lead author, told The Huffington Post by phone Monday. “They contribute knowledge to making important decisions for the public.”

He said the timing of the report, commissioned roughly 18 months ago by the Obama administration’s EPA, was a fluke.

“It is totally bizarre and coincidental that, at the same time, this issue has come to the floor on the national political scene,” Hiatt said. “The fact that they’re colliding this week is totally by chance. But the relevant information is still important.”

Hiatt and his team of 14 other researchers dug deep into eight experiments in particular, called controlled human inhalation exposure, or CHIE, studies that typically subject participants to hours of a pollutant to see how it affects lung function. The results of those studies are used to set EPA standards for air quality under the Clean Air Act.

The agency’s scientific methods, however, weren’t without flaw. In one study, Hiatt found that a 58-year-old woman suffered an irregular heartbeat during a test. Doctors immediately hospitalized her, and she was discharged two hours later when she was determined to be fine. It’s not clear whether her heart rate hastened by exposure during the test or by chance due to chronic disease. Hiatt recommended EPA researchers increase the amount of information given to participants before tests. But the incident marked the only one of 845 cases that went awry, and Hiatt said researchers handled it appropriately.

“The safety of the individual was never in question,” Hiatt said. “It now becomes a political decision by the country’s deciders about what to do with this information.”

Washington Examiner

<http://www.washingtonexaminer.com/trump-asks-federal-judges-to-delay-ruling-on-obama-era-climate-plan/article/2618799>

Trump asks federal judges to delay ruling on Obama-era climate plan

By John Siciliano 3/29/17 3:44 PM

The Justice Department is prodding federal appeals court judges to delay their ruling on the Obama-era Clean Power Plan until the Environmental Protection Agency has time to tweak the plan itself using President Trump's latest executive order as a guide.

A delay would help the Trump administration ensure that the judges don't rule favorably on any aspect of the rule that they are likely to gut in the coming months.

"EPA should be afforded the opportunity to fully review the Clean Power Plan and respond to the president's direction in a manner that is consistent with the terms of the executive order, the Clean Air Act, and the agency's inherent authority to reconsider past decisions," federal attorneys argued in a brief sent to the court Wednesday.

Deferral of further judicial proceedings is thus warranted," the brief said.

Trump's energy independence order signed on Tuesday directed EPA chief Scott Pruitt to begin a review of the Obama administration's climate plan toward the eventual goal of rescinding it. Meanwhile, a 10-judge panel of the D.C. Circuit Court of Appeals is reviewing a lawsuit by 28 states and hundreds of industry groups opposing the regulation.

The court is expected to issue a decision in the coming months, and it is unclear if it will grant the Justice Department's request.

The brief explained to the court that the EPA is closely evaluating the Clean Power Plan, in which "the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions."

The prior positions of the EPA represented in the court were that of the Obama administration, which was defending the regulation from states' claims that the EPA overstepped the limits of its authority in drafting the regulation, and that the climate plan was unconstitutional.

Pruitt, who was formerly the attorney general of Oklahoma, was a lead voice in opposing the Clean Power Plan in the litigation before the D.C. Circuit court ahead of becoming the administrator of the EPA.

The Clean Power Plan was halted by the Supreme Court over a year ago, which states suing the agency took as vindication that the high court agreed with its claims, though the court did not lay

out the reasons for staying the plan.

The plan requires that states reduce their greenhouse gas emissions a third by 2030 to help curb the effects of global warming.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Thur 3/30/2017 4:40:54 PM
Subject: RE: OPA Clips 3/30/17

Below: Politico (2), New York Magazine, The Daily Caller, The Hill, CNN, Mother Jones, Mother Jones (3/29), NPR (3/29), Bloomberg BNA, Politico, The Hill, LA Times, Bloomberg BNA (3), Bloomberg, E&E News (4), Washington Post (2), Huffington Post, Daily Caller, New York Times (3/29), Washington Post (3/29), InsideEPA (3/29), Agri Pulse (3/29), DTN (3/29), Washington Examiner (3/29), AP (2) (3/29), Reuters (2) (3/29), Bloomberg (3/29), The Hill (3/29), Politico (3/29), InsideEPA (3/29), Huffington Post (3/29), Washington Examiner (3/29)

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Politico

<https://www.politicopro.com/energy/whiteboard/2017/03/epa-climate-release-tries-to-praise-trump-but-blasts-him-instead-085685>

EPA climate release tries to praise Trump but blasts him instead

By Alex Guillen 3/30/17, 11:51AM

An EPA effort to showcase praise for President Donald Trump's climate moves went awry today — and instead accused Trump of choosing “to recklessly bury his head in the sand.”

The criticism came in a quote from Democratic Sen. Tom Carper of Delaware, which EPA inaccurately attributed to Sen. Shelley Moore Capito (R-W.Va.), a strong supporter of the coal industry and Trump's order.

“President Trump has chosen to recklessly bury his head in the sand,” said the quote, which appeared at the top of the EPA press release’s litany of reactions to Trump’s climate order. The quote added that the order “calls into question America’s credibility,” and said the president and Administrator Scott Pruitt “have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made.”

Carper is the top Democrat on the Environment and Public Works Committee. Capito’s actual statement, of course, praised Trump and the executive order, which instructed the agency to roll back a series of former President Barack Obama’s most important climate change initiatives.

An EPA spokesman said the mix-up was a mistake. “We apologize for the error and are making sure that our process is improved as we build our team,” he said. The agency swiftly issued a new version of the email, which also corrected the spelling of Capito's first name.

Trump specifically named Capito at the signing Tuesday at EPA headquarters in thanking various lawmakers, Cabinet members and industry leaders for their work.

“And Shelley, thank you very much also, I spotted you in the audience. Thank you,” Trump said.

EPA’s list also included praise from Kentucky Gov. Matt Bevin and West Virginia Attorney General Patrick Morrisey, as well as various industry groups, including the American Coalition for Clean Coal Electricity and the American Petroleum Institute.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/pruitt-pesticide-decision-shows-epas-new-direction-085686>

Pruitt: Pesticide decision shows EPA’s new direction

By Jenny Hopkinson 3/30/17, 11:39AM

EPA Administrator Scott Pruitt is pointing to the denial of a petition from environmentalists that

sought to ban the pesticide chlorpyrifos as an example of the new direction he has set for the agency.

In remarks this morning to the National Cattlemen's Beef Association's Legislative Conference in Washington, D.C., Pruitt said he plans to lead EPA by closely following the law, restoring the rulemaking process to what he sees as its rightful place and working in conjunction with the states.

Pruitt said he denied the longstanding request from Pesticide Action Network North America and the Natural Resources Defense Council — a request that was followed by the Obama administration's finding that the pesticide could pose health risks to children — because, in his view, the petition took regulation of the pesticide out of the process that Congress instructed EPA to follow. A federal court had given EPA until the end of the week to make a decision on the 2007 petition.

"Because that process was breached, we said no; we denied that petition," Pruitt said. "It's not going to be regulated. ... Process is going to be respected."

New York Magazine

<http://nymag.com/daily/intelligencer/2017/03/epa-chief-declines-to-ban-pesticide-linked-to-fetal-damage.html>

EPA Chief Overrules Own Scientists, Declines to Ban Pesticide Linked to Fetal Damage

By Eric Levitz 3/30/17, 10:05AM

In 2015, scientists at the Environmental Protection Agency advised the Obama administration to ban one of the nation's most popular pesticides, chlorpyrifos, after concluding that the chemical impaired fetal brain and nervous-system development. Specifically, the children of farm workers exposed to heavy doses of the product appeared to suffer aberrantly high rates of learning, memory, and behavioral problems. The chemical had already been banned for indoor use, in 2001, due to similar concerns.

But Dow Chemical, which makes chlorpyrifos, wasn't convinced. Nor were many farm groups that rely on the pesticide. And they began lobbying the Obama administration to reject the environmentalists' supposed alarmism.

Last July, an EPA scientific-review panel scrutinized the agency's research on chlorpyrifos, and identified some causes for skepticism about the conclusiveness of its findings. This led to revisions in the researchers' report. Still, as of late last year, EPA staff maintained that the chemical should be prohibited.

But the agency's new leader, Scott Pruitt, who built his national profile by suing the EPA on behalf of industrial interests, decided to err on the side of birth defects Wednesday night.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a written statement. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results."

In rejecting the ban, Pruitt took "final agency action" on the question of chlorpyrifos's safety, a move that suggests the EPA will not revisit the matter until 2022.

It's worth noting that the Obama administration seems to have dragged its feet on this ban, and that there were some quibbles with the initial, underlying research within the EPA. But it is rather difficult to give Pruitt the benefit of the doubt, given the Trump administration's broader contempt for scientific inquiry.

The day before Pruitt's announcement, Trump issued a series of executive orders reversing Barack Obama's Clean Power Plan, and other climate-change policies. He did this without soliciting any advice or guidance from scientists and engineers inside the White House, according to the *New York Times*. That same day, according to *Politico*, staffers at the Department of Energy's climate office were told not to use the words "climate change" or "Paris Agreement" in any written memos — or else the DOE's new chief, Rick Perry, would have a "visceral reaction."

Meanwhile, Trump has failed to appoint anyone to the White House's top advisory positions on technology or science. The administration's Office of Science and Technology Policy is

becoming a ghost town.

Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump's EPA Won't Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17, 8:33AM

President Donald Trump's Environmental Protection Agency (EPA) rejected environmentalists' demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA's own analysis found that "there do not appear to be risks from exposure to chlorpyrifos in food." The agency's own website says chlorpyrifos is safe for humans in "standard" amounts.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a press statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA's attempts to ban the pesticide.

"Dow AgroSciences supports U.S. Environmental Protection Agency's (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in a statement. "Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops."

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled “Protect Our Children’s Brains.”

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn’t completed its assessment of the pesticide’s effects on drinking water and that “certain science issues” regarding chlorpyrifos are “unresolved.”

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, “the risks of pesticides in the diet are remote, long-term, and theoretical, and there is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

The Hill

<http://thehill.com/policy/energy-environment/326472-house-approves-epa-science-committee-overhaul>

House approves EPA science committee overhaul

By Devin Henry 3/30/17, 10:42PM

The House on Thursday approved a bill to overhaul the Environmental Protection Agency's (EPA) scientific advisory committee.

The legislation from Rep. Frank Lucas (R-Okla.) would change membership requirements for the EPA's Science Advisory Board to include more industry voices, expanding financial and conflict of interest disclosure requirements and giving the public the chance to more readily comment on the board's actions.

The bill is similar to one that passed last Congress, and it comes one day after the House approved another bill aimed at the EPA's use of science. Lucas's bill passed on a 229-193 vote.

"This is a bill that is built on the policies we should uphold regardless of which side of the political aisle we are on, or who happens to be president," Lucas said.

The bill "ensures the best experts are free to undertake a balanced and open review of regulatory science."

The EPA's Science Advisory Board reviews the scientific and technical research that goes into the agency's rulemaking process, and it advises the agency on other scientific matters.

Democrats broadly opposed Lucas's bill, saying its requirements would undermine EPA's research by allowing more industry influence over the scientific process.

Rep. Eddie Bernice Johnson (D-Texas) said the bill would restrict the agency's rulemaking by giving too much influence to regulated industries.

She contended that if the bill had been law during fights over tobacco regulations in the 1990s, "Big Tobacco likely would have succeeded in cooping the Science Advisory Board."

The bill "is designed to harm the EPA's ability to use science to make informed decisions," she said. "This is not the best interest of the American public."

Thursday's vote comes after the House passed a bill to restrict the type of science and data the EPA uses to write new regulations.

The House voted 228-194 on Wednesday to prohibit the EPA from writing rules using science that is not publicly available. That legislation is similar to measures passed in previous Congresses.

CNN

<http://www.cnn.com/2017/03/29/opinions/trump-signs-earth-death-warrant-jones/index.html>

Van Jones: Trump may have signed Earth's death warrant

By Van Jones 3/30/17, 10:31AM

As usual, Donald Trump is completely upside down on the facts.

In 2015, President Barack Obama created the Clean Power Plan to slow climate disruption. It was the first action ever taken by the US government to cut carbon pollution from existing power plants.

And this week, with the stroke of a pen, President Trump directed the Environmental Protection Agency (EPA) to take steps to end it.

Trump may have just signed a death warrant for our planet (at least, for a planet that is liveable for humans). And the lies he told to justify it have real consequences for real Americans, here and now.

First, Trump says he wants to dismantle the Clean Power Plan because it represents what he calls "job-killing regulation." False -- limited losses in some sectors are dwarfed by gains in others.

The potential for job growth in the clean energy sector dwarfs any potential job growth in the fossil fuel economy. For example, Trump promised the Keystone XL pipeline would create 28,000 jobs when he approved the project. But he had to use a huge multiplier to get to even that low number. In fact, it would create about 3,000 temporary construction jobs and only 35 permanent jobs. That's right: 35 permanent jobs.

By comparison, in 2016 the number of jobs in solar grew 25% from the year prior, according to figures from the nonprofit Solar Foundation, while jobs in the rest of the economy had less than 2% growth. Renewable energy jobs now create jobs 12 times faster than the rest of the economy.

For Trump to ignore this fact is inexcusable and irresponsible. He's actually hurting the people he claims to help by refusing to invest in opportunities for more jobs in the booming clean energy sector.

By the way, if Trump really cares about those coal miners he invited to the signing ceremony, he should be doing something about the 20,000 who are sick, retired, and within weeks of losing their health benefits if Congress doesn't act. When will Trump call a press conference about them?

Second, Trump claims that the Clean Power Plan was an EPA overreach -- an abuse of its authority. Again, false. The plan is based on Republican President Richard Nixon's Clean Air Act. And the EPA's authority to fight climate disruption was established by a ruling of conservative Chief Justice John Roberts' Supreme Court, under President George W. Bush. In Massachusetts v. EPA (2007), five justices determined that EPA not only has the authority but also the responsibility to cut pollution if it endangers public health -- which it does.

Curbing carbon pollution -- and defending America's land, water and people from other potentially lethal threats -- is neither a liberal value nor a conservative value. Protecting Americans from climate chaos is in everyone's interest.

Third, Trump says eliminating environmental regulations will make America great again. Remember when we had burning rivers? That wasn't so great.

If we follow the Trump trajectory, we're going to be bringing smog back to American cities, accelerating asthma rates in children, putting more poison in the groundwater and costing a lot of Americans their lives.

Trump wants to focus on "job-killing regulations." We should be equally concerned about

potentially child-killing de-regulation.

Government must balance the interests of people's ability to earn a living ... against their ability to actually live. Trump seems to have completely forgotten this.

For example, Kamita Gray in Brandywine, Maryland is living on the frontlines of some of the worst pollution in America. Brandywine is in Prince George's county, which has a population that is 65% African American. This community has three power plants in its backyard already. Two more are being developed. The air quality is so bad there that when the wind blows, people do not leave their homes.

It will be communities like Brandywine that are left to deal with the brunt of fossil fuel pollution from power plants in their neighborhoods. If Trump wants to make America great again, he needs to remember that Brandywine is a part of America, too.

Mother Jones

<http://www.motherjones.com/environment/2017/03/pruitts-epa-capito-carper-lol>

“Irrational,’ ‘Reckless,’ Irresponsible’: The EPA Just Accidentally Told the Truth About Trump’s Climate Plan

By Rebecca Leber 3/3/017, 11:06AM

On Tuesday, President Donald Trump visited the Environmental Protection Agency, where he signed an executive order dismantling key Obama-era policies aimed at fight climate change. On Thursday morning, the EPA sent out a press release highlighting some wonderful praise that Trump's order has received from groups such as the Chamber of Commerce, the American Petroleum Institute, the American Coalition for Clean Coal Electricity, and—of course—Republican politicians. But the top quote in the EPA's email, attributed to Sen. Shelley Moore Capito (R-W.Va.), had an unexpected message:

With this Executive Order, President Trump has chosen to recklessly bury his head in the sand. Walking away from the Clean Power Plan and other climate initiatives, including critical resiliency projects is not just irresponsible— it's irrational. Today's executive order calls into question America's credibility and our commitment to tackling the greatest environmental challenge of our lifetime. With the world watching, President Trump and Administrator Pruitt have chosen to shirk our responsibility, disregard clear science and undo the significant progress our country has made to ensure we leave a better, more sustainable planet for generations to

come.

(Hat tip to Pat Ambrosio).

This is obviously not the glowing review Trump was hoping to get from a coal-state Republican senator. Alas, it appears that someone at the EPA screwed up. That statement actually comes from a Democrat, Sen. Tom Carper (Del.)—not from Capito. If the EPA press release continued to quote from Carper, this would have been the next line:

This order clearly proves that this administration is not serious about protecting jobs and our environment. As a West Virginia native, I understand the plight of coal miners in today's day and age. But the Clean Power Plan isn't the coal industry's problem—market forces are. Let's be perfectly clear: this executive order will not bring back the coal industry. It is an insult to the men and women who voted for him for Donald Trump to say otherwise.

Trump recognized Capito, the West Virginia senator, multiple times in his speech at the EPA Tuesday. He also declared that coal is clean. At the same event, Interior Secretary Ryan Zinke declared the so-called "war on coal" to be over.

The EPA has now sent out a revised version of the press release, correctly quoting Capito's praise of Trump's order. And this time, the agency even spelled her name correctly.

Update: I reached out to some environmental groups and Carper's office over email for comment.

"Senator Carper is happy to lend his words to a good cause," the senator's spokesman said.

Sierra Club Executive Director Michael Brune said, "That quote is the first true thing Scott Pruitt's office has put out yet."

"MWAHAHAHA," 350.org's communications director Jamie Henn began. "The Trump Administration's actions are so outrageous and counter-intuitive that even they can't keep up with the lies that they're spinning out to the public. For once, Capito sounds like she's right on: these executive orders are reckless, irrational, and wildly damaging."

Mother Jones

<http://www.motherjones.com/environment/2017/03/trump-epa-brain-damaging-pesticide>

UPDATED: Trump's EPA Just Greenlighted a Pesticide Known to Damage Kids' Brains

By Tom Philpott 3/29/17

UPDATE (3-29-2017): EPA director Scott Pruitt signed an order denying the agency's own proposal to ban chlorpyrifos, according to a Wednesday afternoon press release. "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while

still protecting human health and the environment,” Pruitt said in a written statement. “By reversing the previous Administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results.”

By Friday, President Donald Trump's Environmental Protection Agency will have to make a momentous decision: whether to protect kids from a widely used pesticide that's known to harm their brains—or protect the interests of the chemical's maker, Dow AgroSciences.

The pesticide in question, chlorpyrifos, is a nasty piece of work. It's an organophosphate, a class of bug killers that work by "interrupting the electrochemical processes that nerves use to communicate with muscles and other nerves," as the *Pesticide Encyclopedia* puts it. Chlorpyrifos is also an endocrine disrupter, meaning it can cause "adverse developmental, reproductive, neurological, and immune effects," according to the National Institutes of Health.

Major studies from the Mount Sinai School of Medicine, the University of California-Davis, and Columbia University have found strong evidence that low doses of chlorpyrifos inhibits kids' brain development, including when exposure occurs in the womb, with effects ranging from lower IQ to higher rates of autism. Several studies—examples here, here, and here—have found it in the urine of kids who live near treated fields. In 2000, the EPA banned most home uses of the chemical, citing risks to children.

Stephanie Engel, an epidemiologist at the University of North Carolina and a co-author of the Mount Sinai paper, says the evidence that chlorpyrifos exposure causes harm is "compelling"—and is "much stronger" even than the case against BPA (bisphenol A), the controversial plastic additive. She says babies and fetuses are particularly susceptible to damage from chlorpyrifos because they metabolize toxic chemicals more slowly than adults do. And "many adults" are susceptible, too, because they lack a gene that allows for metabolizing the chemical efficiently, Engel adds.

But even after banning chlorpyrifos from the home, the EPA allowed farms to continue spraying it. While US farmers eased up on it in recent years, they're still using quite a bit, mainly on corn and soybeans in the Midwest and on fruit, vegetable, and orchard crops in Washington, California, and the Southeast. About a fifth of all the chlorpyrifos applied on US farms happens in California. There, the main target crops are alfalfa, almonds, pistachios, walnuts, tomatoes, and strawberries.

In October 2015, after a review spanning more than a decade, the EPA concluded that exposure to chlorpyrifos posed an unacceptable risk to human health, both from residues on food and in drinking water, and proposed a new rule that would effectively ban farm use of it. The agency also expressed concern about "workers who mix, load and apply chlorpyrifos to agricultural and other non-residential sites and workers re-entering treated areas after application."

The EPA then dragged its feet on finalizing the rule; but in August 2016, a US Federal Appeals court demanded that a decision be made by March 31, 2017, chastising the agency for its "continued failure to respond to the pressing health concerns presented by chlorpyrifos."

A few months after that order, of course, Trump won the presidency, and so his EPA team will make the final decision on chlorpyrifos. Uh-oh. Trump often trumpets his own hostility to regulation and has backed it up by proposing a 31 percent cut in the EPA's budget. Before taking office, Trump looked to Myron Ebell of the hyper-libertarian Competitive Enterprise Institute to lead the EPA's transition. Ebell focuses mainly on denying climate change and promoting fossil fuels, but as I noted in November, CEI runs a website, SafeChemicalPolicy.org, that exists to downplay the health and ecological impacts of pesticides.

Trump's pick to lead the EPA, former Oklahoma Attorney General Scott Pruitt, is a non-scientist with little track record in assessing the health risks posed by chemicals. But he does hew to Trump's general hostility to regulation. At his confirmation hearings, Pruitt couldn't name a single EPA regulation he supports, and he even declined to say whether he'd finalize the EPA's proposed ban on asbestos.

Meanwhile, Dow and the pesticide industry trade group CropLife America are pushing the EPA to backtrack on the chlorpyrifos ban. "The court ordered EPA to make a final decision on the petition by March 31, 2017, but did not specify what that decision should be," Dow noted in a November 10 press release urging the agency to maintain the status quo.

Dow AgroSciences' parent company, Dow Chemical, has also been buttering up Trump. The company contributed \$1 million to the president's inaugural committee, the Center for Public Integrity notes. In December, Dow Chemical Chairman and CEO Andrew Liveris attended a post-election Trump rally in the company's home state of Michigan, and used the occasion to announce plans to create 100 new jobs and bring back another 100 more from foreign subsidiaries. Around the same time, Trump named Liveris chair of the American Manufacturing Council, declaring the chemical exec would "find ways to bring industry back to America." (Dow has another reason beside chlorpyrifos' fate to get chummy with Trump: its pending mega-merger with erstwhile rival DuPont, which still has to clear Trump's Department of Justice.)

Kristin Schafer, policy director for the Pesticide Action Network, says it would be highly unusual for the EPA to backtrack on a decision to ban a chemical after so strongly signaling that it would. (PAN is one of the advocacy groups that sued the EPA way back in 2007 over its previous lack of action on chlorpyrifos.) But she added that "all bets are off with this administration."

She pointed out that the EPA and Dow have been battling over the chemical since the Clinton administration. Back in 1995, the agency fined the company \$732,000 for failing to disclose more than 100 reports of chlorpyrifos poisoning. "These reports are particularly important," the agency complained, because chemicals enter the marketplace without any human testing, and poisoning notices "may document effects not seen in animal studies, or indicate areas which warrant further research." Most of those alleged poisoning incidences involved exposure in the home—chlorpyrifos was then the most-used household and yard insect-killer. By 2000, as noted above, the EPA had seen fit to ban most home uses of the insect killer.

In an analysis of the risks posed by chlorpyrifos released in November 2016, the EPA crunched

data on residues found in food and compared them to the levels at which the chemical can harm the most vulnerable populations: kids and women of child-bearing age. The results (found on page 23 of the EPA [doc](#)) are startling. Natural Resources Defense Council researchers [turned them into this handy graphic](#):

It would be quite something for the Trump administration to dismiss such overwhelming evidence from EPA scientists and continue allowing chlorpyrifos to be sprayed on crops with few restrictions. But he has already displayed a willingness to [trash the agency's rule-making process to placate his Big Ag supporters](#).

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NPR

<http://www.npr.org/sections/thesalt/2017/03/29/521898976/will-the-epa-reject-a-pesticide-or-its-own-scientific-evidence>

EPA Decides Not To Ban A Pesticide, Despite Its Own Evidence Of Risk

By Dan Charles 3/29/17, 7:06PM

Update 7:06 P.M. Eastern: The EPA says it's reversing course and keeping [chlorpyrifos](#) on the market.

That's despite the agency's earlier conclusion, reached during the Obama administration, that this pesticide could pose risks to consumers. It's a signal that toxic chemicals will face less restrictive regulation by the Trump administration.

In its [decision](#), the EPA didn't exactly repudiate its earlier scientific findings. But the agency did say that there's still a lot of scientific uncertainty about the risks of chlorpyrifos, and it said that because of that uncertainty, the court had no right to set a firm deadline for a decision. A federal court had ordered the EPA to decide by midnight on Friday whether to ban chlorpyrifos. The Obama administration [proposed](#) this ban back in 2015.

The EPA says it will keep studying the chemical.

Patti Goldman, from the environmental group Earth Justice, calls the decision "unconscionable," and says that her group will fight it in court.

New EPA Administrator Scott Pruitt made his reputation opposing the agency's regulations, and many farm organizations expected him to renounce the proposed ban. But doing so would mean disregarding a substantial pile of scientific evidence that his agency has assembled on the risks of this chemical.

Our original story continues.

Farmers have been using chlorpyrifos since 1965. Most of them know it by its trade name, Lorsban. When Wesley Spurlock, a farmer in the panhandle of Texas, sees worms on his corn

or aphids on his wheat, this is the chemical that he typically loads into his sprayer.

"This chemical doesn't scare us at all," he says.

He does wear special clothing to protect himself, though. Because this chemical attacks the nervous systems of insects and people. It can cause dizziness, vomiting and diarrhea. So he's careful when handling it. "You don't spill any of it. It goes into the sprayer, we don't splash it around and make a mess," he says.

If he's spraying near the house, he might tell the kids to stay inside until the job is done. "By doing all this, it's a safe product," he says. "It's doing its job and it's doing it well."

Fruit and vegetable farmers use this chemical on citrus trees, strawberries, broccoli and cauliflower. This can leave residues on those foods in the supermarket. Several environmental advocacy groups have gone to court to force the EPA to ban the use of chlorpyrifos by farmers because of the risks that the chemical poses to consumers and to people who live near fields where it's used.

"Based on the harm that this pesticide causes, the EPA cannot, consistent with the law, allow it in our food," says Patti Goldman, an attorney with the environmental advocacy group Earthjustice.

More than a decade ago, the EPA banned the spraying of chlorpyrifos indoors to get rid of household bugs.

At that time, though, the EPA thought that use on the farm posed little risk. The agency was relying on scientific studies that directly measured the immediate effect of chlorpyrifos on the nervous system. Residues on food weren't nearly enough to keep nerves from working normally.

But then new evidence surfaced. Jim Jones, who was assistant administrator of the EPA and responsible for pesticide regulation before he left the agency in January, says the new evidence came from studies in which scientists followed hundreds of mothers and their newborn children, monitoring their exposure to lots of chemicals. One of these studies, by researchers at Columbia University, measured the levels of chlorpyrifos in blood taken from umbilical cords when babies were born.

While the study was going on, the ban on indoor uses of chlorpyrifos came into effect. So over the course of those years, scientists were able to gather data on children who had been exposed to very different levels of the pesticide.

They found that exposure to chlorpyrifos caused small but measurable differences in brain function. At age 7, the average IQ of children who had been exposed to high levels of chlorpyrifos was a few percentage points lower than children who hadn't been exposed to much of the chemical at all. Other studies showed that some people are much more vulnerable to chlorpyrifos because of their genetic makeup.

The studies suggested that this chemical was more dangerous than people had previously realized.

Jones says the EPA struggled to translate the findings of these studies into a prediction of risk from chlorpyrifos residues on food. For one thing, the agency had to come up with an estimate

of how much chlorpyrifos the women had been exposed to, based on levels of chlorpyrifos in their blood.

"But once we cracked that nut, and you had the risk evaluated and in front of you, it became, in my view, a very straightforward decision, with not a lot of ambiguity in terms of what you would do," he says.

The law on pesticides is very strict: It requires "a reasonable certainty that no harm will result" to consumers or people living in the areas where pesticides are applied.

In 2015, the EPA proposed a ban on chlorpyrifos.

Dow Agrosciences, the company that sells chlorpyrifos, insists that a ban is unjustified.

Jim Aidala, a former pesticide regulator at the EPA who now works as a consultant to Dow, says that many scientists — including those on a committee that the EPA asked to look at this question — aren't convinced by the scientific methods the EPA used. "There's a lot of controversy about this," he says.

But the EPA is facing a deadline, because of legal challenges from environmental groups, including Earthjustice, which have submitted a petition that the EPA ban chlorpyrifos. A federal judge ordered the agency to make a final decision on this petition by March 31.

"I'm waiting with bated breath for Friday, to see what they're going to go," Jones says. "I just don't know what basis they would have to deny the petition [to ban the chemical], given the vast scientific record that the EPA's got right now."

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215045&vname=dennotallissues&wsn=49950550

EPA Won't Ban Controversial Dow Pesticide

By Tiffany Stecker 3/23/17

The EPA has reversed course in its effort to restrict a widely used, insect-controlling pesticide, backpedaling on one of the Obama administration's key initiatives to lower pesticide exposure.

The Environmental Protection Agency will deny a decade-old petition from environmental groups to revoke all uses, called "tolerances," of chlorpyrifos on food, EPA Administrator Scott Pruitt announced March 29. The insecticide is an important crop protection tool for fruit, vegetable and row crop growers.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides

in the world, we are returning to using sound science in decision-making—rather than predetermined results.”

The agency released its decision two days before a court-ordered deadline to act on the 2007 petition from the Pesticide Action Network and the Natural Resources Defense Council. The Department of Justice is expected to file its response to the U.S. Court of Appeals for the Ninth Circuit by the end of the week.

Another Blow to Obama's Green Legacy

The farm and landscaping insecticide was developed by Dow AgroSciences and first registered by the EPA in 1965. Environmentalists have sought to end use of the chemical, which they say has been linked to neurodevelopmental delays in children, for decades.

In denying the petition, the EPA said it disagreed with the methodology used by the previous administration to justify what amounts to a near-ban of the chemical.

The agency issued a proposed rule to revoke the tolerances in 2015, using its authority in the 1996 Food Quality Protection Act. The agency based part of its scientific justification for doing so on epidemiological studies that measured levels of the chemical in exposed women and children.

Under former Administrator Gina McCarthy—President Obama's second nominee to run the agency—the EPA worked to solidify the scientific justification for revoking the tolerances, including a human health risk assessment that relied in part on a controversial epidemiological study from Columbia University on children's health effects.

Epidemiologists say these population studies record changes in learning and behavior that can't be traced in the rodent experiments that historically serve as the basis for the EPA's pesticide regulations. But the chemical industry argues that epidemiological studies are difficult to control, and adverse outcomes can be attributed to a range of diet, lifestyle and other environmental factors.

Dow criticized the EPA for relying specifically on an epidemiological study from Columbia University that found that chlorpyrifos affected brain development in New York City children exposed in utero. The study's data was kept confidential by the university, prompting Dow and other industry groups to ask the EPA not to rely on the observations.

The company swiftly applauded the EPA decision.

“Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety,” spokesman David Sousa said in a statement.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/epa-pursuing-mindboggling-timeline-in->

Sources: trump admin aiming for new WOTUS rule by year's end

By Annie Snider 3/30/17, 5:01AM

The Trump administration is pressing EPA to replace the Obama administration's Waters of the U.S. rule by the end of this year, according to multiple sources with knowledge of the plan — a lightning-speed timeline that legal experts say could shortcut key steps and make the effort vulnerable in court.

EPA Administrator Scott Pruitt recently convened a meeting on the future of the WOTUS rule, where he told agency water staffers to have an initial rewrite ready by this summer, according to one source with knowledge of his instructions. Agency employees have been telling states, environmentalists and industry groups to expect things to move "on a very fast pace." The source called the expectation to issue a proposed rule within a few months "mind-boggling."

Pruitt's predecessors took a much more deliberate approach, knowing that any rule attempting to clarify the legal morass of Clean Water Act jurisdiction would almost certainly end up at Supreme Court.

The Obama administration spent years grappling with where to draw the lines, crafting a legal rationale, and building a mass of scientific and technical reports to back up their approach before ultimately proposing its rule in April 2014. EPA then took 14 months to collect and respond to more than one million public comments, meet with more than 400 outside groups, draft changes to the rule and shepherd it all through the interagency review process.

The timeline being mulled by the Trump administration would give agency staff just a few months to put the foundation of the rule in place. An EPA spokeswoman said only that "discussions are ongoing."

Part of the reason the Obama administration took so long is because it produced lengthy supporting documents, even though most were not mandated by law. Those included a 90-page regulatory impact analysis and an exhaustive scientific report and technical support document,

both of which clocked in around 400 pages each.

Trying to finish a new rule this year means the Trump administration would have to skip most of those steps, potentially making its rule more vulnerable to being overturned in court, said Patrick Parenteau, a Vermont Law School professor.

“The more they start cutting corners and not going back through the same process they did to do the [Obama administration] rule, the greater risk they’re going to be overturned,” he said.

Making EPA’s job even more difficult is the fact that the agency is being asked to base its new rule on a potentially shaky legal interpretation.

The last time the Supreme Court weighed the limits of the Clean Water Act's jurisdiction was in the 2006 case *Rapanos v. United States*, where justices failed to reach a majority decision. The late Antonin Scalia led the court’s four conservative justices in a plurality opinion setting a restrictive test for waterways to fall under federal protection, while the court’s four liberal justices voted for broad federal jurisdiction. Justice Anthony Kennedy, the court's traditional swing vote, joined the conservative justices in their ruling, but he wrote his own, stand-alone opinion setting a broader test that would make streams and wetlands jurisdictional if they have a “significant nexus” to larger downstream waters.

None of the nine federal appeals courts that have weighed the issue have decided that Scalia's line of reasoning would stand on its own. But President Donald Trump directed EPA to look to Scalia's opinion in his executive order requesting a WOTUS rewrite, and sources familiar with instructions to agency staffers say they've been told to rely solely on Scalia's test.

Courts have generally ruled that Kennedy’s test is the one that must be followed, although a handful have concluded that if a waterway meets either the Kennedy or the Scalia test, it falls under federal power. The Obama administration wrote its rule to meet Kennedy’s test, and the George W. Bush administration had also focused on Kennedy in its 2008 guidance on the topic.

Legal experts generally argue that it will take some fancy footwork for the Trump administration

to argue that Scalia's test should take precedence.

But Reed Hopper, an attorney for the Pacific Legal Foundation who has successfully argued the *Rapanos* case before the Supreme Court, said that rewriting the rule doesn't have to be that complicated.

"I think there isn't going to be much of a problem: Look at the act, see what it says, recognize that there are constitutional constraints," he said. He also pointed out that the Supreme Court has overturned lower courts on several recent wetlands cases, including one he argued last year in which the justices ruled that courts can review the federal government's jurisdictional determinations.

Reed argued that EPA could quickly rewrite WOTUS if it throws enough manpower into the effort.

But that could pose a challenge, since the Trump administration has been slow to staff up. Pruitt has only a small cadre of political allies at the agency so far, and key slots in the Office of Water and General Counsel's office are sitting empty. The Army Corps of Engineers, which will need to at least supply data for the rewrite effort, is likewise without a political leader.

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The Hill

<http://thehill.com/policy/energy-environment/326465-epa-head-wont-ban-controversial-pesticide>

EPA head won't ban controversial pesticide

By Timothy Cama 3/30/17 9:31 AM

The head of the Environmental Protection Agency (EPA) on Wednesday decided against banning the use of the pesticide chlorpyrifos on fruits and vegetables.

EPA Administrator Scott Pruitt's decision represents a course reversal from the Obama administration, which proposed the ban in 2015, based on its scientific findings of neurological harm from exposure to it.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a late Wednesday statement.

“By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results,” he said.

Pruitt’s decision matches what Dow Chemical Co., which sells the pesticide under the brand name Lorsban, sought in a January letter to the agency. Dow accused the Obama EPA of short-circuiting its scientific review process for pesticides, including in areas like transparency and peer review.

Farmers use chlorpyrifos to kill insects and some plant pests on numerous crops, including some meant for human consumption. It has been in use since 1965, but most household uses were phased out in 2001.

Research in recent years has linked the pesticide to nervous system and brain problems, including lowered brain function in some children exposed to it before birth.

The EPA under Obama proposed in 2015 to ban chlorpyrifos’s use on food crops, responding to a petition and lawsuit from the Natural Resources Defense Council (NRDC) and other groups.

“With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains,” a coalition wrote to the agency this year.

But Dow objected, as did agricultural interests.

“EPA’s proposal appears to be a retreat from its statutory obligation that, when evaluating pesticides for registration, it balances the risk of those active ingredients against their benefits to farmers specifically, and to the public generally, when they do not pose an unreasonable risk to health or the environment,” the American Farm Bureau Federation told the agency.

Groups that pushed for the ban slammed Pruitt’s decision

“The Trump administration is putting the needs of chemical corporations before children’s health,” NRDC senior scientist Miriam Rotkin-Ellman said in a statement.

“Parents shouldn’t have to worry that a dangerous chemical might be lurking in the fruits and veggies they feed their kids,” she said. “We will hold EPA accountable to protecting the American people from industries that can do us grave harm. The health of our children depends on it.”

NRDC and its could ask the Court of Appeals for the Ninth Circuit, the court where it previously sued the EPA to force a decision, to review Pruitt's final determination.

LA Times

<http://www.latimes.com/business/la-fi-pesticide-epa-201703230-story.html>

Trump administration reverses course on nerve-agent pesticide

By Geoffrey Mohan 3/30/17, 4:00AM

The U.S. Environmental Protection Agency on Wednesday reversed an Obama administration recommendation to ban a pesticide linked to nervous system damage in children.

Newly installed EPA administrator Scott Pruitt signed an order that would allow farmers to continue using chlorpyrifos, which is sprayed on more than a dozen crops, including tree nuts, soybeans, corn, wheat, apples and citrus.

The Obama administration had announced in 2015 that the agency would adopt a "zero tolerance" policy for residue of the chemical on food, a move that effectively would have ended its use.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," Pruitt said of the decision.

Pruitt's action came in response to complaints by the agricultural and chemical industries that the Obama administration had cut short a review of the scientific evidence about the chemical's effects on humans. The administration was under pressure from an order by the U.S. 9th Circuit Court of Appeals to speed up its ruling on the safety of the chemical.

The court order sprang from lawsuits by the Pesticide Action Network and Natural Resources Defense Council, which had petitioned the EPA in 2007 to ban the chemical. Pruitt denied that petition Wednesday.

Kristin Schafer, policy director at Pesticide Action Network, accused EPA of caving to corporate pressure.

"The new administration's agency ignored their own findings that all exposures to chlorpyrifos on foods, in drinking water, and from pesticide drift into schools, homes and playgrounds are unsafe," Schafer said.

The U.S. Department of Agriculture praised Pruitt's action.

"This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States," said Sheryl Kunickis, director of the USDA's Office of Pest Management Policy. "It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables."

About 5 million to 10 million pounds of chlorpyrifos, manufactured by DowAgroSciences, are used annually on crops nationwide. The chemical is an organophosphate, a class of chemicals originally designed as a nerve agent weapon.

Chlorpyrifos has been banned from consumer products and residential use nationwide for more than 15 years. Several studies have suggested it can impair cognitive development in children. A UC Berkeley study found that 7-year-old children in the Salinas Valley who were exposed to high levels during pregnancy had slightly lower IQ scores than their peers. A Columbia University study showed similar effects at lower exposure.

In 2006, the EPA revised its tolerance levels for the chemical and limited the crops on which it can be applied.

In California, the Department of Pesticide Regulation restricted use of chlorpyrifos in 2015, requiring licensing, training and oversight by county agriculture commissions. It also tightened buffer zone requirements around fields where the chemical was applied, and banned its use near schools and other facilities when winds exceed 10 miles per hour.

Use of the chemical in California declined from a peak of more than 2 million pounds in 2005 to about 1.1 million in 2012, but rose to nearly 1.5 million pounds in 2013, the last year for which complete data were available, according to the state Department of Pesticide Regulation.

Environmental activists attribute the increase to the rise in almond production, which has been increasing rapidly in counties where the chemical is most heavily applied, according to the National Agricultural Statistics Service.

More than 500,000 pounds of the chemical were applied to crops in Kern and Fresno counties in 2013, by far the biggest users of the pesticide, according to the state Department of Pesticide Regulation.

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Trump's Climate Order Didn't Touch Several Obama-Era Programs

By David Schultz 3/30/17

The Trump administration rolled back many of its predecessor's signature climate change measures with an energy-focused executive order, but the order was notably silent on several Obama-era climate programs that don't affect the energy industry.

Trump's March 28 order either rescinded or began the process of rescinding numerous regulations on power plants, oil and gas drillers, coal miners and others in the energy sector.

But his executive order left untouched several other Obama-launched initiatives meant to combat climate change. These include measures that affect the chemicals, waste management, agriculture and aviation industries, and some of these measures impose significant costs on those industries.

The fact that Trump is willing to let these Obama-era measures stand—at least for now—indicates his White House may be taking a less dogmatic stance toward climate change than one would expect, given the many statements of climate skepticism that have come from administration officials and from the president himself.

The Trump administration did not respond on the record to a request for comment for this story.

Chemicals

The executive order leaves intact the Obama administration's ban on a type of refrigerant chemical called hydrofluorocarbons, or HFCs. These chemicals were targeted in Obama's 2013 Climate Action Plan because, while they are a small contributor to climate change, they are also highly potent greenhouse gasses that trap 1,000 times more heat in the atmosphere than the same amount of carbon dioxide.

The ban's exclusion from the executive order comes as little surprise, since just weeks earlier Trump administration attorneys went to court to defend it against a legal challenge from HFC manufacturers (*Mexichem Fluor Inc. v. EPA*, No. 15-01328 (D.C. Cir. 2/17/17)).

David Doniger, an attorney with the Natural Resources Defense Council, said Trump's defense of his predecessor's HFC ban betrays the White House's contradictory stance toward the issue of a warming planet.

“They seemed to draw a distinction: ‘Climate change is a hoax when it involves the energy industry, but not a hoax when it involves the chemicals industry,’” Doniger said at a March 22 D.C. Bar panel discussion.

Landfills

Though Trump's executive order took aim at a number of regulations on methane emissions, it didn't address a particular regulation on methane emissions from landfills that the Environmental Protection Agency finalized last year. The waste management industry is challenging this regulation in federal court, arguing that its emissions thresholds are too difficult to meet (*Natl Waste and Recycling Ass'n v. EPA*, No. 16-01371 (D.C. Cir. 10/27/16)).

The lead plaintiffs in this case said they didn't anticipate the Trump administration to pull back this EPA landfill rule in his executive order.

“There wasn't a big expectation on our part,” Anne Germain, a director with the National Waste and Recycling Association, told Bloomberg BNA. “The president is really trying to focus [deregulation efforts] on energy production and isn't targeting methane holistically.”

Aviation

Significantly, Trump's executive order did not instruct the EPA to rescind its 2009 finding that carbon dioxide is a pollutant, a landmark document that laid the basis for nearly all of the agency's climate regulations during the Obama era.

The order also did not nullify a much narrower EPA finding from last year on the pollution effects of greenhouse gas emissions from airplanes. This finding triggers a legal requirement that the EPA establish limits on airplane emissions.

The aviation industry has come out in favor of imposing these regulations on its own planes. It wants U.S. rules on greenhouse gases to be harmonized with soon-to-be-established international standards, which the industry will have to comply with regardless of what Trump's EPA does.

Agriculture

The executive order also gave no indication that Trump will put a halt to the work federal agencies have been doing on promoting biogas generation, another of the priorities listed in Obama's Climate Action Plan.

Since 2014, the EPA has been working with the Departments of Agriculture and Energy to help livestock farmers turn the waste from their animals into biogas fuel, rather than allowing it to decompose into climate-harming methane. A joint 2014 report from the agencies laid out a plan to promote this practice by allocating loans to farmers and grants to biogas researchers, among other measures.

Patrick Serfass, head of the trade group American Biogas Council, said his emerging industry was likely excluded from the executive order because of many other economic benefits to biogas generation, aside from reducing methane emissions.

“We don't have to talk about the climate benefits to make a really compelling point as to why it's important,” he told Bloomberg BNA. “We've stopped using our climate-related messages because the other ones are resonating more.”

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Trump Administration Asks Court to Halt Clean Power Plan Review

By Andrew Harris and Jennifer A Dlouhy 3/30/17

President Donald Trump took yet another step toward dismantling his predecessor's climate

change legacy, asking a federal appeals court halt its review of carbon-emission rules for power plants (*West Virginia v. EPA*, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Trump, who famously called climate change a hoax in a 2012 tweet, signed an executive order March 28 that starts unraveling a raft of rules and directives to combat climate change. That's now been followed by a bid to temporarily place on hold a 26-state suit challenging the centerpiece of President Barack Obama's environmental agenda—the Clean Power Plan—so the new administration can dismantle it ahead of a ruling on its legality.

The request is the strongest sign yet that the U.S. may back away from Obama's commitment to a 197-nation climate change accord, though the White House hasn't taken that step.

Asking the court to halt its review is the easy part. The next steps could be more difficult. Since the rule was finalized, the new administration can't kill it out right and instead must go through the rule-making process again to undo it, said Villanova University law professor Todd Aagaard. The Trump administration is arguing that the court shouldn't waste resources deciding the case, when the EPA plans to revise or undo the rule anyway.

“The case is not moot simply because EPA is considering undoing the Clean Power Plan,” he said. “It won't be moot unless and until EPA actually finalizes a new rule to undo the plan.”

The Environmental Protection Agency will need about a year to administratively remove the CPP from the federal regulatory landscape, while justifying that reversal, allowing for public comment and still meeting its Clean Air Act obligations. The result will almost certainly be challenged by the same green groups and states that initially defended the rule.

“The EPA cannot simply dismantle the Clean Power Plan and leave nothing in its place,” New York Attorney General Eric Schneiderman, a Democrat, said Tuesday on behalf of 18 states that intervened in the court case in support of the rule. “This is not a situation where they can just junk the regulations.”

The Obama rule was designed to limit polluting coal-fired power plants in favor of green energy, such as wind and solar. Trump's EPA Administrator, Scott Pruitt, has asked the court, which heard arguments over the plan's merits in September, to put the case on hold while his agency and the administration review it.

“The Clean Power Plan is under close scrutiny by the EPA, and the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions,” the EPA said in its court filing late Tuesday.

The Republican Pruitt, while serving as Oklahoma attorney general, was one of the first officials who sued in October 2015 to strike down the former president's plan to reduce carbon emissions to 32 percent below what they were in 2005. While 27 states had been part of that effort, North Carolina—whose new governor and attorney general are both Democrats—dropped out of the case.

Not Without Risk

New York, 17 other states and the District of Columbia intervened in that suit in the plan's defense.

The Pruitt-led EPA is essentially telling the court not to bother deciding the case because the plan won't go into effect. Judges don't have to agree. Schneiderman has promised to press for a ruling, a move that is not without risk for the plan's supporters.

If the Clean Power Plan is ultimately upheld by the courts, the Trump administration would have to acknowledge that it could stick with the plan but, as a matter of policy discretion, decided not to do so, Villanova's Agaard said.

"Of course, if either the D.C. Circuit or Supreme Court were to hold that the Clean Power Plan is invalid, EPA wouldn't even have to undertake a rule-making to kill the plan -- it would already be dead," he said.

The plan is "legally valid," Schneiderman said, and it's "extraordinarily unusual" for one party to say it doesn't want a ruling so far along in the case.

Roiled Industry

The Obama rule roiled the energy industry when it was unveiled in 2015. The plan dictates specific carbon-cutting targets based on the amount of greenhouse gases states released while generating electricity in 2012. It followed the EPA's landmark 2009 determination that greenhouse-gas emissions endanger the public's health and welfare.

Pruitt, who has also discounted the role of carbon dioxide as the main driver for climate change, helped lead the charge for states opposing the plan in arguing that its goal to shift power generation away from coal and toward cleaner sources would force the creation of a "new energy economy."

First to sue, though, was West Virginia Attorney General Patrick Morrisey, who hailed Trump's decision to roll back the regulations. In a phone interview, Morrisey called the plan "one of the most egregious and unlawful regulations that we've seen in many many years."

Trump campaigned on a vow to bring back coal jobs. He told a crowd in Kentucky on March 20 that the administration will turn the EPA "from a job killer into a job creator."

The Justice Department late March 28 also asked the D.C. Circuit to halt progress in litigation over EPA's carbon standards for new power plants, which established a requirement that any new coal-fired power plant be equipped with carbon capture technology (North Dakota v. EPA, D.C. Cir., No. 15-1381, motion filed 3/28/17).

The administration's request comes about three weeks before the court is scheduled to hear oral arguments over the regulation on new power plants. The Clean Air Act required the EPA to

establish standards for new power plants as a prerequisite for regulating existing plants through the Clean Power Plan.

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House Passes Bill Requiring Science in EPA Rules to Be Public

By Rachel Leven 3/30/17

A House-passed bill would require science and data used in EPA regulations or assessments to be made public.

The 228-194 vote March 29 was an unsurprising outcome, given passage of a similar bill by a 241-175 House vote last session.

Supporters of the Honest and Open New EPA Science Treatment Act of 2017 (H.R. 1430), sponsored by House Science, Space, and Technology Committee Chairman Lamar Smith (R-Texas), said it would provide transparency into science used in certain Environmental Protection Agency actions. Critics said the bill would bog down further an already slow regulatory process and block the agency from using important science in its decisions.

The bill now heads to the Senate, where new Environment and Public Works Committee Chairman John Barrasso (R-Wyo.) has indicated an openness to addressing the issue, a Barrasso spokesman said. The committee never held a hearing on last session's version of the bill, the Secret Science Reform Act of 2015 (H.R. 1030).

The measure, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, is supported by groups including the American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The House Science, Space and Technology Committee approved H.R. 1430 March 9 by a 17-12 vote along party lines. The Congressional Budget Office hasn't released a cost estimate related to the bill.

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<https://www.bloomberg.com/politics/articles/2017-03-29/volkswagen-says-it-has-epa-approval-to-sell-repaired-diesels>

Volkswagen Says It Has EPA Approval to Sell Repaired Diesels

By Ryan Beene 3/30/17 3:30 AM

Volkswagen AG will soon do what's been impossible since its emissions crisis began: sell diesel-powered cars in the U.S.

The company received approval from the Environmental Protection Agency for its dealers to sell 2015 model year diesels after updating the vehicles' emissions software, VW Group of America spokeswoman Jeannine Ginivan said.

The software update is part of a required emissions repair approved by the EPA and California Air Resources Board. The repair will also include changes to diesel engine hardware, but dealers do not have to wait until the repair parts become available early next year, Ginivan said.

"We are still finalizing the details of this program and will provide more information on its implementation at the appropriate time," Ginivan said in a statement.

Volkswagen admitted 18 months ago to rigging nearly 500,000 diesel cars to pass U.S. emissions tests. The Wolfsburg, Germany based company froze sales of new and certified used diesels in the U.S. while it worked with regulators on an approved fix. The company has put aside \$24 billion (22.6 billion euros) to cover costs and fines related to the scandal.

The shares were little changed at 136.50 euros at 9:19 a.m. in Frankfurt trading, bringing the decline since the scandal broke in September 2015 to about 16 percent.

Significant Milestone

Reviving diesel sales marks a significant milestone in VW's efforts to recover from the scandal and rebuild its relationship with environmental regulators. It also returns a key product to dealer showrooms that attracted a cult-like customer base and accounted for about 20 percent of the VW brand's pre-scandal sales.

Yet it's a mostly symbolic step. The sales approval only applies to about 67,000 diesels from the 2015 model, about 12,000 of which are currently in dealer inventory, Ginivan said.

An EPA spokeswoman didn't immediately return messages seeking comment.

Volkswagen has also said no new diesel models will be offered in the U.S. at least through model year 2018. The company is moving aggressively toward electric vehicles, signaling a diminishing role for diesel engines in the company's portfolio, especially in the U.S.

The program will also eventually include used 2015 diesels the company has repurchased from owners through the 2016 settlement with U.S. regulators and owners, Ginivan said. Some customers have elected to keep their cars and receive restitution and an emissions repair under

the terms of its \$10 billion buyback.

While diesel engines are more fuel efficient than their gasoline counterparts and are found in about half of new passenger cars sold in Europe in part due to tax breaks, they never fully caught on in the U.S., accounting for less than three percent of deliveries.

E&E News

<http://www.eenews.net/climatewire/2017/03/30/stories/1060052328>

On balance, the world wants Trump to stay

By Jean Chemnick 3/30/17

The world is prepared to put up with quite a lot to keep the United States in the Paris climate deal.

If White House officials who want the United States to remain part of the 2015 agreement prevail in what appears to be an ongoing tug of war within the administration, the trade-off is likely to be weaker emissions commitments and no new climate aid for the remainder of President Trump's term. Even then, the administration could make new demands in forthcoming negotiations that could complicate the delicate deal among nearly 200 nations.

Still, most climate diplomats and environmentalist observers say they would rather deal with a Trump team than lose the United States altogether.

"I don't think it would be seen as an advantage to have the United States out, if for no other reason than that countries will be very hopeful that this is a time-limited bump in the road," said former State Department Special Envoy for Climate Change Todd Stern. "And it is a lot more useful to have the U.S. still in the regime, so that when things eventually turn around in Washington, then the U.S. is there, rather than you've got to go through the whole aggravation of them not being there."

Trump this week essentially hollowed out the U.S. Paris pledge when he signed an executive order rolling back Obama-era greenhouse gas regulations that formed the basis of America's international commitments. A new target, or "nationally determined contribution" (NDC), to Paris would likely accompany any decision to stay in the deal, and analysts believe it will be an emissions range consistent with a business-as-usual scenario.

The next weeks are expected to settle whether Trump will stay or go. But a State Department team will attend the next midyear climate talks in Bonn, Germany, a first foray that might shed some light on whether the new administration would assume a role of benign neglect or of outright obstruction if it stays. Even if Trump does move to withdraw soon, the process will take four years, during which time his team could still attend talks and play an active, if diminished, role in setting the rules of the road.

Battle lines within and around the administration are not clearly drawn. Over the weekend, U.S. EPA Administrator Scott Pruitt dismissed Paris as a "bad deal" in an interview on ABC's "This Week," while EPA transition team leader Myron Ebell attacked Secretary of State Rex Tillerson

as a "swamp creature" in remarks at a Washington conference for saying during his Senate confirmation process back in January that the United States should maintain a "seat at the table" on Paris.

It's unclear what role, if any, Tillerson is playing in this decision, which will ultimately be made by Trump himself, either with the usual input from advisers or without it. But Trump's daughter Ivanka Trump and son-in-law Jared Kushner were instrumental in slashing language from yesterday's executive order rolling back domestic climate regulations that would have set the wheels in motion for a withdrawal from Paris. And several members of Trump's National Security Council argue for remaining in the deal for pragmatic reasons. Senior adviser Steve Bannon does not.

Still, Stern said he assumes that if the United States remains in the deal, it will not try to ruin it from within.

"I don't think that they're going to diabolically say, 'Let's stay in so we can throw bombs,'" he said.

"A seat at the table doesn't generally mean a seat at the table with a grenade in your hand," Stern added. Still, he acknowledged, if the new negotiating team were extraordinarily unconstructive, that might prompt some partners to wish it had just made an exit.

Should the U.S. help write the rulebook?

But a future administration might find it complicated to re-enter Paris, while an exit from the underlying U.N. Framework Convention on Climate Change (UNFCCC) would likely mean the United States would have to stay out of the deal for good. It would be very difficult for a future administration to wrangle 60 Senate votes in the future to rejoin the treaty.

And a regime without the United States is likely to be less effective in the long run.

"I can't envision a world in which it would be better for the U.S. to pull out in terms of keeping the agreement together or keeping others on board," said Kate Larsen, climate director of the Rhodium Group and a former State Department negotiator during both the George W. Bush and Obama administrations.

"If the U.S. were to pull out, you would have to believe that at some point, later in the future, when a more sympathetic president is in place, that we'd be able to either rejoin the agreement or negotiate a whole new one," she added.

Paris was the culmination of more than two decades of negotiations that eventually included 196 parties, and that included many setbacks and false starts along the way that threatened to capsize the process.

The United States was frequently a pariah in the process, but usually for arguing, across Democratic and Republican administrations alike, for provisions on transparency, common responsibility across developed and developing countries, and the avoidance of binding language that would require Senate approval for the United States to join.

If the United States were to suddenly withdraw from the process, Larsen said, "the voices for

including elements that are problematic for the U.S. get stronger and ultimately win out."

If the United States is not active over the coming two years as the Paris rulebook is being negotiated and written, the next administration could return to a process that has become difficult to join.

Stern noted that the Paris accord made substantial new progress in breaking down past barriers between what the process demanded of developed and developing participants and on transparency — gains he said the United States should continue to guard in the implementation phase.

World waits, strategizes

Climate diplomats and negotiators approached for this story were generally reticent to speak on the record about the future of U.S. participation in Paris. Some worried about being seen to weigh in on domestic U.S. politics, while others feared weighting the scales toward a U.S. exit.

Officials from Europe and elsewhere say they're still assessing who their counterparts are within the Trump White House and State Department.

"It's not under discussion with key climate diplomats," said Christoph Bals of Germanwatch. "They have lots of problems at the moment to find a person in the U.S. government who has a mandate to negotiate this with them. And they are absolutely frustrated in our chancellery that they don't know who the right person [is] to negotiate those kinds of things."

Maros Sefcovic, vice president for the compact's Energy Union, did meet with White House officials earlier in the month, and German Foreign Minister Sigmar Gabriel met with Tillerson and Vice President Mike Pence in February to discuss the agenda his country has set for its presidency of the Group of 20 nations this year, which includes climate change.

German Chancellor Angela Merkel is said to have a personal stake in a strong climate outcome for the G-20, but has so far avoided putting Trump on the spot. She raised climate change during a closed-door lunch with the president during her visit to Washington earlier this month, but did not make a public statement about it. And the Germans watched as Treasury Secretary Steven Mnuchin stripped long-established language from this year's financial ministers' communiqué for the G-20 that called for the removal of trade barriers, while he banded together with Saudi Arabia's minister to cancel all reference to climate finance. Greens hope climate aid will reappear at the leader-level summit in July, together with a reaffirmation of the Paris deal, but Maeve McLynn of CAN Europe said Mnuchin's heavy-handedness did not bode well for how the United States might perform in upcoming climate talks.

"This is what I'm kind of fearing, that the U.S. will come in and not be willing to compromise on certain things," she said. Both the G-20 and the climate talks operate on consensus, and the United States plays an outsized role.

McLynn said that Europeans are dealing with the uncertainty in Washington by engaging more deeply with other countries. The 28-nation bloc could announce new bilateral efforts with China, Latin America and other nations at summits later this year, and is weighing whether to increase its commitment to climate finance in response to a retreating United States. Outreach to Canada and Mexico is also part of the strategy.

"The message we're getting is, 'Let's not focus too much on Trump and the Trump administration, but then let's start building and strengthening the alliances with the countries around the U.S.,'" said McLynn.

Foreign officials are not offering direct criticism so far of Trump's domestic climate moves, though they seem to be holding fire until the Paris announcement is out.

Jake Schmidt, international climate change director for the Natural Resources Defense Council, said Europe, small island states and other members of the so-called high ambition coalition would be unlikely to accept a weaker NDC without comment.

"Pretending like there's no blowback to changing how you act on climate change is a bit delusional," he said, predicting that a change in Paris commitment would spark a diplomatic pushback.

Dennis Clare, who has negotiated on behalf of small island states within the UNFCCC process, said a major emitter like the United States would set a dangerous precedent if it were to pare back its already-insufficient NDC, though an exit from the deal would "go one step further."

"Most countries would surely lament any diminishment of the collective global response to climate change and the increased human suffering that would cause," he said.

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052317>

Democrats press Pruitt to address conflict of interest

By Ariel Wittenberg 3/20/17

U.S. EPA Administrator Scott Pruitt hasn't responded to requests from Senate Democrats that he address an apparent conflict of interest caused by President Trump's executive order that directs the agency to review and possibly rescind the Clean Water Rule.

Environmental and Public Works Committee Democrats asked him last week to confirm that he has either recused himself from actions related to the regulation or received permission from ethics officials to remain involved in the rule review (*Greenwire*, March 21).

The letter requested a response "by no later than March 29." A Democratic aide said neither Pruitt nor EPA has responded.

EPA didn't respond to repeated requests for comment for this story.

At issue is a lawsuit Pruitt filed as Oklahoma attorney general against the Obama administration's Clean Water Rule.

The regulation, also known as the Waters of the U.S. rule, or WOTUS, aims to clarify the reach

of federal regulations over wetlands and waterways under the Clean Water Act. It was strongly opposed by farmers, land developers and energy companies that said it amounted to federal overreach.

Trump's executive order directs EPA to rescind the regulation and to "promptly notify the Attorney General of the pending review" so that the Department of Justice can decide how to proceed on lawsuits filed against the litigation.

Two days after that order was signed, Pruitt himself signed a notice indicating EPA had begun its review of the regulation.

But Senate Democrats say the executive order creates a conflict of interest for Pruitt because it includes "explicit direction" regarding the lawsuit he filed as Oklahoma attorney general.

Pruitt has signed an ethics agreement stating he would seek authorization from EPA's designated ethics official to "personally and substantially" participate in "particular matters involving the specific parties in which I know the State of Oklahoma is a party or represents a party."

Pruitt also told the committee during his confirmation hearing he would recuse himself from matters related to litigation he filed as attorney general unless he had permission from ethics officials.

Senate Democrats are asking for proof Pruitt has done that.

"Although we all continue to believe," they wrote, "that you should have made more extensive recusals than the ones you committed to, the specific language in section 2(c) of the Order should have triggered even the more limited recusal policy to which you have already and repeatedly agreed."

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052312>

House OKs 'secret science' bill; advisory board bill up today

By Sean Reilly 3/30/17

The House has again passed legislation that would bar U.S. EPA from pursuing new regulations based on science that is not "transparent or reproducible," brushing aside critics' warnings that it would hamstring the agency's ability to protect public health and the environment.

The bill, [H.R. 1430](#), won approval late yesterday by a 228-194 margin after a perfunctory one-hour debate under a closed rule that barred amendments. Three Democrats voted yes; seven Republicans were opposed.

The House approved similar measures titled the "Secret Science Reform Act" in 2014 and 2015. Both then died in the Senate following Obama administration veto threats. Although the latest

version, dubbed the "Honest and Open New EPA Science Treatment Act," is certain to play better with President Trump, it still faces uneven odds in the Senate, where 60 votes are needed to move legislation of any significance.

Potentially raising the bar further is a Congressional Budget Office [forecast](#) released after yesterday's vote that estimated that annual implementation costs over the next few years could range from a few million dollars to around \$100 million.

The bill, sponsored by House Science, Space and Technology Chairman Lamar Smith (R-Texas), would require online availability of the research data used in studies undergirding new regulations as a means of allowing independent analysis. "Our goal is to help advance not just any science, but the best science," Smith said during yesterday's floor debate.

As they have in the past, Smith and other Republicans portrayed the bill as an open-government measure intended to shed light on the research behind EPA rules that can sometimes carry a considerable economic wallop.

"It's like they have a little black box over there; they don't ever let anyone else look into it," said Rep. Brian Babin (R-Texas). "Show us your data."

Critics, however, see the legislation's purported purpose as anything but honest. Instead, they have argued, it would make it easier for industry to bring lawsuits against new rules, while making it harder for EPA to tap important research because the results of studies based on large data sets aren't easily reproducible.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee's ranking member, described the bill as even worse than its two predecessors and said it would stifle EPA's ability to protect public health. "Unfortunately in this case," Johnson said, "the third time is not the charm."

Democrats also questioned the value of a newly added exemption for personally identifiable and sensitive business information from the internet posting requirements, given that the data could still be obtained through a confidentiality agreement with the EPA administrator.

An even bigger question mark hovers over the bill's potential cost.

A 2015 Congressional Budget Office analysis of a similar measure pegged the annual price tag for the first couple of years at \$250 million. During yesterday's debate, Smith said that reading was a misinterpretation of the implementation requirements.

But the CBO score for H.R. 1430, released after yesterday's vote, signaled that the expense for EPA could still be substantial, even as the agency faces a 31 percent cut under Trump's proposed budget for next year.

Although the final tab would hinge in part on how much money EPA chooses to invest in "infrastructure" to make researchers' data more widely available, the overall amount could range from several million dollars per year to more than \$100 million per year "to ensure that data and other information underlying studies are publicly available in a format sufficient to allow others to substantially reproduce the results," the CBO analysis said. Based on the "minimal" approach that EPA officials say they plan to take, however, the budget office pegged total spending from 2018 through 2022 at \$5 million.

Earlier this week, Smith had predicted the implementation cost would be "minuscule" (*E&E Daily*, March 28). His legislation would cap EPA's annual spending at \$1 million, or roughly in line with what agency officials told CBO they would use.

Smith's bill is traveling in tandem with H.R. 1431, a separate measure by Rep. Frank Lucas (R-Okla.) to revamp membership requirements for EPA's Science Advisory Board. Earlier in the day, the House cleared the latter bill on a 232-188 vote for debate this morning. It will probably pass by lunchtime.

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/30/new-trailer-for-al-gores-inconvenient-truth-shows-president-trump-as-climate-change-villain/?utm_term=.775755b36688

New trailer for Al Gore's 'Inconvenient Truth' sequel shows President Trump as climate change villain

By Ben Guarino 3/30/17, 3:01AM

The trailer for "An Inconvenient Sequel: Truth to Power," the second film in Al Gore's franchise of climate change documentaries, depicts President Trump as an antagonist. The clip that Gore shared via Twitter on Wednesday shows the president at an airport rally held last April in Rochester, N.Y., where then-candidate Trump mocks the climate science consensus.

"It's supposed to be 70 degrees today," Trump says. "It's freezing here! Speaking of global warming, where is — we need some global warming!"

As for Gore, the trailer vindicates the former vice president's climate change predictions. Gore says that the most criticized part of 2006's "Inconvenient Truth," which won a documentary feature Oscar in 2007, was the notion that the World Trade Center Memorial could flood from rising sea levels and stronger storm surges. Smash cut to 2012 — "Hurricane Sandy slammed into New York City last night, flooding the World Trade Center site," a newscaster says in the trailer.

The trailer jumps from the devastation wreaked by extreme weather events to shots of green energy infrastructure and Gore pumping the hand of Canadian Prime Minister Justin Trudeau.

And then, halfway through, the screen goes to black. Enter Trump.

The trailer showcases another Trump campaign rally speech. "It's time to put America first," he says. "That includes the promise to cancel billions in climate change spending."

Trump's statements have frequently missed the mark on climate change. In a December interview with Fox News, Trump said he was "open-minded" on the subject. But his other stances have veered from conspiracy — Trump infamously called global warming a Chinese hoax, in a Twitter post that he later shrugged off as a joke — to skepticism. He told The Washington Post editorial board in March 2016 that he was "not a great believer in man-made climate change."

At least one of his businesses, however, acknowledges the threat posed by rising oceans; the Trump International Golf Links Ireland cited global warming in its 2016 application seeking a permit for a protective sea wall.

Gore has frequently demurred from attacking Trump's climate change views. In fact, he characterized a December meeting with Trump at Trump Tower in Manhattan as constructive. "I had a lengthy and very productive session with the president-elect. It was a sincere search for areas of common ground," Gore said of his 90-minute lunch meeting, as The Washington Post reported at the time. "I had a meeting beforehand with Ivanka Trump. The bulk of the time was with the president-elect, Donald Trump. I found it an extremely interesting conversation, and to be continued, and I'm just going to leave it at that."

When "An Inconvenient Sequel: Truth to Power" debuted at the 2017 Sundance Film Festival in January, Variety commented on the fact that Gore did not mention Trump by name. Gore told the Sundance crowd only that, in the realm of climate change setbacks, "now we have another," as Variety reported. Gore also opposed Trump's decision to appoint Scott Pruitt, a critic of climate change science, to head the Environmental Protection Agency.

Al Gore meets with Donald Trump

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation "extremely interesting." (The Washington Post)

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation "extremely interesting." Former vice president Al Gore speaks to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York. (Photo: AP/The Washington Post)

In mid-March, Gore expressed optimism that Trump would not withdraw the U.S. from the 2015 Paris climate accord, an agreement in which the country would curb greenhouse gas emissions. Trump has wavered between a public declaration to "cancel" the agreement and saying he had an "open mind" on pulling out.

On the same day that Gore tweeted the new trailer, the House Science Committee held a climate change panel thick with political theater, as The Post reported, but scant by way of practical solutions. The day prior, Trump signed an executive order to boost the coal industry that also allows federal officials to disregard a previous requirement to consider climate change during decision-making processes.

Washington Post

https://www.washingtonpost.com/news/fact-checker/wp/2017/03/30/the-white-houses-claim-that-the-carbon-emissions-rule-could-cost-up-to-39-billion-a-year/?utm_term=.947656cfb127

The White House's claim that the carbon emissions rule 'could cost up to \$39 billion a year'

By Michelle Ye Hee Lee 3/30/17, 3:00AM

“The previous administration’s Clean Power Plan could cost up to \$39 billion a year ... according to NERA Economic Consulting.”

–White House fact sheet, March 28, 2017

President Trump has started rolling back Obama-era environmental protections, including directing federal regulators to rewrite federal rules to reduce carbon emissions.

The Clean Power Plan, a flagship environmental regulatory rule of the Obama administration, proposes to cut carbon emissions from existing power plants 30 percent below 2005 levels by 2030. It has been placed on hold while under litigation.

Proponents of the rule say it will improve public health and the United States would set an example for other countries to curb carbon emissions. Opponents say the plan will have minimal impact on the environment while driving up costs for consumers. The Fact Checker obviously takes no position on the rule.

A fact sheet about the March 28 executive order on Obama-era climate protections estimated the cost of the Clean Power Plan at up to \$39 billion. How accurate is this estimate? Who exactly is NERA Economic Consulting? And why isn’t the White House using estimates by the Energy Information Administration (EIA) or the Environmental Protection Agency?

The Facts

Studies on the cost impact of the rule are built on different sets of assumptions, making it hard to make apples-to-apples comparisons. These studies compare how the energy industry and consumers would be affected in the absence of the new carbon emissions rule.

States have wide latitude in complying with the federal rule. Costs can vary depending on state, regional or local policymakers’ decisions. Emissions and power plants can cross state boundaries, so states can coordinate with each other to lower costs.

There are assumptions made about the types of actions states will take after the rule takes effect, and what role renewables and natural gas energy will play. That means there are a lot of unknowns in cost estimates. That’s an important caveat.

The NERA Economic Consulting’s November 2015 study that the White House cites is commissioned by the American Coalition for Clean Coal Electricity, which opposes the Clean Power Plan. The Fact Checker always warns readers to be skeptical of industry-funded research. The \$39 billion is the high end of the \$29 billion-to-\$39 billion range of potential costs on the U.S. fossil-energy sector, under one method of compliance in the emissions rule.

Critics of the study say there are key assumptions that inflate costs.

It makes conservative baseline calculations about the impact of renewable energy policies, said David G. Victor, director of the Laboratory on International Law and Regulation at University of California-San Diego. Those policies would reduce the amount of emissions even before any costs of the Clean Power Plan are incurred. NERA Economic Consulting said that the cost of renewables do not actually have a major effect on its estimates of the rule’s costs.

The study relies on outdated cost figures for renewable energy and energy efficiency, according

to the National Resources Defense Council, which is critical of this study. Its modeling is based on figures published by the EIA in its 2015 report, which “severely underestimates renewable growth and overestimates costs of new renewable generation,” according to the environmental group, which supports the Clean Power Plan.

The study also makes different assumptions about allocations of allowance costs for the electricity companies. This may have led to higher electricity price increases compared to the assumptions in other studies, including one by the EIA. However, EIA’s study is not an apples-to-apples comparison to the one by NERA Economic Consulting.

Clean energy advocates say the study ignores long-term benefits of energy efficiency programs, and that the rule could even lead to people saving money. The EPA and EIA fall somewhere in between those advocates and the study by NERA Economic Consulting; those agencies estimate that electricity prices would rise slightly at first but fall later, according to E&E News.

The EPA estimates that by 2030, the benefits of the rule (\$34 billion to \$54 billion) will outweigh the costs of complying with new regulations (\$8 billion).

The White House did not respond to our request for comment.

The Pinocchio Test

The White House used a statistic by an industry-backed study to claim that the Clean Power Plan could cost “up to \$39 billion a year.” While this wording indicates that it’s the highest end of the spectrum of costs, it creates a misleading impression that this is a definitive cost.

In reality, there are too many unknowns to cite a statistic like this with no context. The study the White House cites is based on a series of assumptions that are not comparable to ones made by the EIA, a credible government agency of career statisticians and researchers crunching data. We know the new White House isn’t a fan of government statistics produced under the previous administration, but eventually, the administration won’t be able to just rely on industry estimates and claims.

Huffington Post

http://www.huffingtonpost.com/entry/heartland-institute-climate-pack_us_58db4c63e4b05463706323d4

Climate Change-Deniers ‘Spam’ Thousands Of Teachers With Anti Global Warming Packages

By Nick Visser 3/30/17, 7:15AM

One of America’s most prominent climate-denying groups, galvanized by the Trump administration listening to their claims, has set its sights on a new target: teachers.

The Heartland Institute, a conservative think tank that's become one of the loudest voices when it comes to climate denial, has sent more than 25,000 science teachers across the country a package of material it hopes they'll use in the classroom, according to a report from PBS Frontline.

Alongside a note from Lennie Jarratt, the group's project manager for transforming education, the package contains a book called *Why Scientists Disagree About Global Warming* and a 10-minute video about using their guidance.

"I'm writing to ask you to consider the possibility that the science in fact is not 'settled,'" Jarratt says in the memo. "If that's the case, then students would be better served by letting them know a vibrant debate is taking place among scientists on how big the human impact on climate is, and whether or not we should be worried about it."

However, there's near universal consensus among climate researchers that the planet is warming — rapidly — and human-induced greenhouse gas emissions are the primary cause. Earth experienced its hottest year on record in 2016, and officials have warned we're running out of time to address the threat of climate change.

Jim Lakely, the Heartland Institute's director of communications, confirmed thousands of copies of the group's book have been sent out, and more are yet to come.

"The number put out by PBS Frontline might be low before it's all done. We'll see," he said in an email. "We're mailing out the material because the science is not 'settled' when it comes to what are the causes and consequences of climate change."

The packages have already drawn swift rebuke.

"It's not science, but it's dressed up to look like science," Ann Reid, the executive director of the National Center for Science Education told Frontline. "It's clearly intended to confuse teachers."

The National Council for Special Education published survey findings this month that 75 percent of public science educators devote time to teaching about climate change. But around 30 percent of the 1,500 teachers surveyed cast doubt on the cause, disputing scientific consensus about the phenomenon.

Some teachers expressed their dismay on Twitter at receiving the Heartland Institute packages:

@Matthewrcover: Received this junk in my university mailbox today. Thanks but no thanks
#HeartlandInstitute

@sustainteach: After teaching about #climatechange all day, it was kind that the Heartland Institute, an organization funded by petroleum, sent me this.

@SanRaider25: Oh look, the Heartland Institute sent me a care package. And they want my feedback. #science #ActOnClimate

@CityLightsUF: The Heartland Institute is spamming my workplace with b*****t.

Heartland has been riding high since the election of President Donald Trump, a who's called climate change a hoax invented by the Chinese. The group hosted its 12th annual conference on climate denial this month. The event drew pro-Trump billionaire Robert Mercer and his daughter Rebekah Mercer, along with Myron Ebell, the man in charge of the Trump campaign's transition at the Environmental Protection Agency.

Lakely said the group has been “meeting a demand” with the packages and that it’s been “contacted by many teachers who’ve asked us for science-based materials that will help them tell their students the truth.”

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The Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump’s EPA Won’t Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17 8:33 AM

President Donald Trump's Environmental Protection Agency (EPA) rejected environmentalists' demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA's own analysis found that "there do not appear to be risks from exposure to chlorpyrifos in food." The agency's own website says chlorpyrifos is safe for humans in "standard" amounts.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a press statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA's attempts to ban the pesticide.

"Dow AgroSciences supports U.S. Environmental Protection Agency's (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in a statement. "Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops."

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled "Protect Our Children's Brains."

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn't completed its assessment of the pesticide's effects on drinking water and that "certain science issues" regarding chlorpyrifos are "unresolved."

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, "the risks of pesticides in the diet are remote, long-term, and theoretical, and there

is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

New York Times

<https://www.nytimes.com/2017/03/29/us/politics/epa-insecticide-chlorpyrifos.html>

E.P.A. Chief, Rejecting Agency’s Science, Chooses Not to Ban Insecticide

By Eric Lipton 3/29/17

WASHINGTON — Scott Pruitt, the head of the Environmental Protection Agency, moved late on Wednesday to reject the scientific conclusion of the agency’s own chemical safety experts who under the Obama administration recommended that one of the nation’s most widely used insecticides be permanently banned at farms nationwide because of the harm it potentially causes children and farm workers.

The ruling by Mr. Pruitt, in one of his first formal actions as the nation’s top environmental official, rejected a petition filed a decade ago by two environmental groups that had asked that the agency ban all uses of chlorpyrifos. The chemical was banned in 2000 for use in most household settings, but still today is used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples.

Late last year, and based in part on research conducted at Columbia University, E.P.A. scientists concluded that exposure to the chemical that has been in use since 1965 was potentially causing significant health consequences. They included learning and memory declines, particularly among farm workers and young children who may be exposed through drinking water and other sources.

But Dow Chemical, which makes the product, along with farm groups that use it, had argued

that the science demonstrating that chlorpyrifos caused such harm is inconclusive — especially when properly used to kill crop-spoiling insects.

An E.P.A. scientific review panel made up of academic experts last July also had raised questions about some of the conclusions the chemical safety staff had reached. That led the staff to revise the way it had justified its findings of harm, although the agency employees as of late last year still concluded that the chemical should be banned.

Mr. Pruitt, in an announcement issued Wednesday night, said the agency needed to study the science more.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Mr. Pruitt said in his statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

The United States Department of Agriculture, which works close with the nation’s farmers, supported Mr. Pruitt’s action.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation,” Sheryl Kunickis, director of the U.S.D.A. Office of Pest Management Policy, said in a statement Wednesday.

Dow Agrosciences, the division that sells the product, also praised the ruling, calling it in a statement “the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops.”

But Jim Jones, who ran the chemical safety unit at the E.P.A. for five years, and spent more than 20 years working there until he left the agency in January when President Trump took office, said he was disappointed by Mr. Pruitt’s action.

“They are ignoring the science that is pretty solid,” Mr. Jones said, adding that he believed the ruling would put farm workers and exposed children at unnecessary risk.

The ruling is, in some ways, more consequential than the higher profile move by Mr. Trump on Tuesday to order the start of rolling back Obama administration rules related to coal-burning power plants and climate change.

In rejecting the pesticide ban, Mr. Pruitt took what is known as a “final agency action” on the question of the safety and use of chlorpyrifos, suggesting that the matter would not likely be revisited until 2022, the next time the E.P.A. is formally required to re-evaluate the safety of the pesticide.

Mr. Pruitt’s move was immediately condemned by environmental groups, which said it showed that the Trump administration cared more about catering to the demands of major corporate players, like Dow Chemical, than the health and safety of families nationwide.

“We have a law that requires the E.P.A. to ban pesticides that it cannot determine are safe, and the E.P.A. has repeatedly said this pesticide is not safe,” said Patti Goldman, managing attorney

at Earthjustice, a San Francisco-based environmental group that serves as the legal team for the Natural Resources Defense Council and the Pesticide Action Network of North America, which filed the petition in 2007 to ban the product.

The agency had been under court order to issue a ruling on the petition by Friday. The environmental groups intend to return to the Ninth Circuit Court of Appeals in San Francisco to ask judges to order the agency to “take action to protect children from this pesticide” Ms. Goldman said on Wednesday.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/29/trump-epa-declines-to-ban-pesticide-that-obama-had-proposed-outlawing/?utm_term=.f43b3a7e2977

Trump EPA declines to ban pesticide that Obama had proposed outlawing

By Brady Dennis 3/29/17, 5:20PM

The new head of the Environmental Protection Agency refused Wednesday to ban a commonly used pesticide that the Obama administration had sought to outlaw based on mounting concerns about its risks to human health.

The chemical compound chlorpyrifos, also known as Lorsban, has been used by farmers for more than a half-century to kill pests on crops including broccoli, strawberries and citrus. The EPA banned its spraying indoors to combat household bugs more than a decade ago. But only in recent years did the agency seek to ban its use in agriculture, after mounting scientific evidence that prenatal exposure can pose risks to fetal brain and nervous system development.

Under President Barack Obama, the EPA proposed in 2015 to revoke all uses of chlorpyrifos on food — a move taken in response to a petition filed by the Natural Resources Defense Council and Pesticide Action Network North America. A federal judge had given the EPA until Friday to decide whether to finalize its ban of the pesticide.

On Wednesday, EPA Administrator Scott Pruitt decided the answer would be no.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than

predetermined results.”

His statement argued that the “public record lays out serious scientific concerns and substantive process gaps in the proposal.”

Sheryl Kunickis, director of the Office of Pest Management Policy at the Department of Agriculture, agreed with the decision.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world,” she said in a statement. “This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

The chemical industry also pushed hard against a chlorpyrifos ban. Dow AgroSciences, which manufactures the pesticide, said late last year that the Obama administration’s assessment of its safety “lacks scientific rigor.” The company said it “remains confident that authorized uses of chlorpyrifos products, as directed, offer wide margins of protection for human health and safety.”

But dozens of scientific researchers, doctors and public health professionals had joined the environmental groups in urging the EPA to prohibit all use of chlorpyrifos.

“With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains,” a group of supporters wrote in a letter to the agency early this year. “We strongly urge EPA to finalize its assessment and cancel all remaining uses of chlorpyrifos as expeditiously as possible.”

Environmental activists were incensed Wednesday, saying that Pruitt had ignored substantial evidence of potential harms.

“The chance to prevent brain damage in children was a low bar for most of Scott Pruitt’s predecessors, but it apparently just wasn’t persuasive enough for an administrator who isn’t sure if banning lead from gasoline was a good idea,” Environmental Working Group president Ken Cook said in a statement. “Instead, in one of his first major decisions as head of the EPA, like a toddler running toward his parents, Pruitt leaped into the warm and waiting arms of the pesticide industry.”

InsideEPA

<https://insideepa.com/daily-news/pruitt-woos-conservatives-ghg-risk-finding-offers-no-firm-promise>

Pruitt Woos Conservatives On GHG Risk Finding But Offers No Firm Promise

By Doug Obey 3/29/17

EPA Administrator Scott Pruitt is offering assurances to his most conservative critics that he is committed to scuttling numerous Obama-era climate policies -- while leaving the door open to efforts to repeal the agency's landmark greenhouse gas endangerment finding -- after a conservative columnist called for his resignation because of a lack of action so far on the finding.

In a [March 28 interview](#) with *Breitbart* -- the hard-line conservative news outlet formerly run by White House chief strategist Steve Bannon -- Pruitt said he will eventually respond to petitions that have been filed seeking to roll back the GHG endangerment finding, the legal basis for EPA's climate rules and an effective requirement of the Supreme Court's ruling in *Massachusetts v. EPA*.

“I think that if there are petitions for reconsideration for the [endangerment finding], we’ll have to address those at some point,” Pruitt said in the interview. “Our objective, and our role, is to do what the law requires.”

He does not mention that there are currently as many as [three petitions pending](#) at the agency to reconsider the landmark risk finding.

Pruitt's comments underscore the political and legal awkwardness of President Donald Trump's executive order to review or scrap numerous climate policies, such as EPA's Clean Power Plan, but not the endangerment finding.

Many of the administration's most conservative supporters are concerned that the order does not go far enough in calling for officials to reconsider the endangerment finding, fearing it will undercut administration efforts to rescind climate rules.

Many observers have long asserted that the Clean Air Act still obligates the agency to act on GHGs even in the absence of the regulations Trump is seeking to roll back, meaning that the conservatives' hope of scrapping the GHG risk finding might be legally infeasible.

One of those critics, *Breitbart* columnist James Delingpole [in a March 27 column](#) argued that Pruitt should resign if he cannot follow through with efforts to scrap the finding.

He cited reports that Pruitt resisted including a reference to the endangerment finding in the executive order and suggested that he may have done so because he wants to appear more moderate as he is interested in running for the Senate seat expected to be vacated by Sen. James Inhofe (R-OK).

Awkward Line

Pruitt in the interview with *Breitbart* emphasizes themes likely to appeal to a conservative audience amid an ongoing Senate confirmation battle over Trump's Supreme Court pick, defending “EPA originalism,” defined as adhering to Congress' original authorities.

Pruitt also touts plans to rein in alleged agency overreach. “We’re going to roll it back, those things that were unlawful, we’re going to roll back those things that were an overreach, we’re going to roll back the steps taken by the previous administration.”

Pruitt has walked an awkward public line on the GHG finding even while repeatedly criticizing

specific Obama climate change programs, suggesting during his Senate confirmation process that getting rid of the finding is not a priority.

At the time, Pruitt did not rule out any EPA action on the issue but called the finding the “law of the land,” appearing to offer a political shield to lawmakers that they would not be branded climate skeptics simply for voting for him.

But since his confirmation, Pruitt declared in a *CNBC* interview that carbon dioxide is not a “primary contributor” to global warming, sparking widespread blowback from scientists and others and appearing to refute the EPA finding.

His *Breitbart* interview also wades into non-climate topics, including a stated goal of refocusing the agency away from climate change and on to 1,300 Superfund sites that have lingered on the agency's National Priorities List.

That goal, however, appears to clash with preliminary Trump administration budget requests that would impose a massive 31 percent cut on the agency and appears to include significant cuts to both Superfund and brownfields programs, based upon analysis by former EPA employees.

Sources outside the agency say they believe that Pruitt has successfully fought off some proposed brownfields-related cuts, but that budget threats in those areas remain. -- *Doug Obey* (dobey@iwpnnews.com)

Agri-Pulse

<https://www.agri-pulse.com/articles/9113-epa-rejects-petition-to-revoke-chlorpyrifos-tolerances>

EPA rejects petition to revoke chlorpyrifos tolerances

By Steve Davies 3/29/17, 10:03PM

WASHINGTON, March 29, 2017 - The Environmental Protection Agency has decided to continue allowing the use of the insecticide chlorpyrifos, stating that the science surrounding human health effects is too uncertain to justify its own proposed ban on food tolerances.

The agency announced the decision late today, two days ahead of a court-ordered deadline. The Natural Resources Defense Council and Pesticide Action Network had petitioned the agency 10 years ago to ban Dow AgroSciences' organophosphate insecticide (tradename: Lorsban), which is used to control a variety of crop pests, including corn rootworm and soybean aphid.

The groups have argued that food residue levels are high enough to pose a risk to the developing brain and nervous system.

But EPA said in its news release that its October 2015 proposal to revoke food tolerances "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

An EPA Scientific Advisory Panel convened to examine the epidemiological data used by the agency questioned the agency's use of a Columbia University study that relied on umbilical cord blood data from pregnant women to extrapolate exposure levels for children. The SAP released its report last summer.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," EPA Administrator Scott Pruitt said. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

The National Association of State Departments of Agriculture (NASDA) was quick to praise the decision.

"By maintaining the Maximum Residue Limits for chlorpyrifos, agricultural use of this important tool will continue, significant disruption of international trade is avoided, and harmonization efforts may continue globally," NASDA President and Louisiana Commissioner of Agriculture & Forestry Mike Strain said. "As state regulatory partners with EPA, we look forward to continuing to work with the agency to ensure current and future tools are reviewed in a rigorous, scientifically sound, and transparent manner."

USDA also was pleased. Sheryl Kunickis, director of the department's Office of Pest Management Policy, said the decision "means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world."

Kunickis also said it was "great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables," and added, "We thank our colleagues at EPA for their hard work."

Chlorpyrifos is used on more than 50 crops, including soybeans, alfalfa, wheat, citrus, fruit, tree nuts, vegetables, sugarbeets and cotton, CropLife America said in a brief filed in the 9th Circuit Court of Appeals. It is "the leading insecticide active ingredient to control a number of different insects in crops, including soybean aphids in soybeans, aphids and armyworm in alfalfa, European asparagus aphid and cutworm in asparagus, corn rootworm and lesser cornstalk borer in peanuts, and leafrollers and San Jose scale in apples."

"The public record lays out serious scientific concerns and substantive process gaps in the proposal," EPA said in its release. "Reliable data, overwhelming in both quantity and quality, contradicts the reliance on – and misapplication of – studies to establish the end points and conclusions used to rationalize the proposal."

In its order denying the petition, EPA said it has "concluded that, despite several years of study, the science addressing neurodevelopmental effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos."

The agency "has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues. As noted, Congress has provided that EPA must complete registration review by October 1, 2022."

In the days leading up to the decision, environmental groups had mobilized to muster support for the proposed tolerance revocation. The Environmental Working Group collected signatures for an [online petition](#), saying that "research has linked chlorpyrifos to nervous system damage, behavioral problems and lower IQ in young children whose mothers were exposed during pregnancy. In adults, low-level exposure to chlorpyrifos can cause nausea, headaches and dizziness. Farmworkers and others who are severely exposed have suffered vomiting, muscle cramps, diarrhea, blurred vision, loss of consciousness and even paralysis."

DTN

<https://www.dtnpf.com/agriculture/web/ag/news/crops/article/2017/03/30/epa-disagrees-previous-tact>

EPA: No Chlorpyrifos Ban

By Todd Neeley 3/29/17, 7:38PM

OMAHA (DTN) -- The pesticide ingredient chlorpyrifos will not be banned by the U.S. Environmental Protection Agency, according to a news release issued by the agency late Wednesday afternoon.

EPA Administrator Scott Pruitt announced the agency denied a petition filed by environmental groups to ban the pesticide outright, saying in a statement that farmers need chlorpyrifos.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making rather than predetermined results."

Chlorpyrifos is the main ingredient in Lorsban, Dow AgroSciences' organophosphate insecticide

targeting pests such as soybean aphids, spider mites and corn rootworm.

Since being sworn in as EPA administrator, Pruitt has begun the process of turning back regulations created during the previous administration.

Dow AgroSciences said in a statement to DTN Wednesday evening that the company was pleased with EPA's decision.

"Dow AgroSciences supports U.S. Environmental Protection Agency's decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in its statement.

"Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops. We will continue to cooperate with EPA under the established regulatory process in its scientific review of this vital crop protection solution."

Sheryl Kunickis, director of the Office of Pest Management Policy at USDA, said in a statement it was important to keep chlorpyrifos available to farmers.

"This is a welcome decision grounded in evidence and science," she said. "It means that this important pest-management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world."

"This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States. It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables."

In a news release Wednesday evening, EPA said "the public record lays out serious scientific concerns and substantive process gaps in the proposal. Reliable data, overwhelming in both quantity and quality, contradicts the reliance on, and misapplication of, studies to establish the end points and conclusions used to rationalize the proposal."

The EPA said USDA "disagrees with the methodology" used by the previous administration.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," EPA said in its release.

"The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) also expressed concerns with regard to EPA's previous reliance on certain data the agency had used to support its proposal to ban the pesticide."

The road to the proposed chlorpyrifos ban began when the Pesticide Action Network North America and Natural Resources Defense Council filed a petition in 2007 to force EPA to take action on chlorpyrifos, based on concerns over drinking water. In June 2015, the U.S. Ninth Circuit Court of Appeals issued a ruling pressuring EPA to make a decision by Oct. 31, 2015, on whether or not it would establish food tolerances for the insecticide. EPA stated it did not have the data needed to do so and instead would pursue a ban.

Last summer, EPA asked the court for a six-month extension to take final action.

In a final order issued Aug. 12, 2016, the court ruled against the request by EPA and ordered the agency to take action by March 31, 2017.

Most recently, the EPA revised its human health risk assessment for chlorpyrifos in November 2016 to state that residues on food crops and in water are at unsafe levels.

There was concern that doing away with chlorpyrifos could at some point complicate the battle against insects, especially when growers are being encouraged to rotate chemistries to guard against insect resistance.

Corn accounts for chlorpyrifos' largest agriculture market as far as total pounds used because, overall, there are more corn acres than soybean acres, according to EPA. However, in recent years, use of chlorpyrifos has expanded in soybeans and has been on the decline in corn.

According to Dow AgroSciences' website, chlorpyrifos use in soybeans expanded from about 200,000 acres in 2004 to about 8 million acres in 2008. Dow estimated chlorpyrifos was applied to about 11% of soybean acres planted in 2008.

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-epa-returning-to-using-sound-science-on-pesticide-ban-reversal/article/2618829>

Pruitt: EPA 'returning to using sound science' on pesticide ban reversal

By John Siciliano 3/29/17 8:05 PM

Environmental Protection Agency chief Scott Pruitt slammed the brakes on an environmentalists' push to ban a commonly used pesticide, saying the decision marks the return of sound science to the agency.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," Pruitt said on Wednesday in announcing that he is terminating the proceedings to ban the pesticide chlorpyrifos.

He said the decision maintains "regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment."

The large environmental activist group Natural Resources Defense Council had petitioned that the chemical be banned from use in the United States. The Obama EPA took up the petition in October 2015 and was in the middle of finalizing a ban on the substance when the Trump administration took the reins of government in January.

Pruitt pointed out that the public record showed "serious scientific concerns and substantive process gaps in the proposal," making the previous administration proposed action unreliable.

EPA said in a release that the U.S. Agriculture Department disagreed with the scientific methodology the Obama administration used in making its determination.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," it said. "The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel also expressed concerns with regard to EPA's previous reliance on certain data the Agency had used to support its proposal to ban the pesticide."

The Agriculture Department welcomed EPA's decision, saying it will prevent major disruptions for farmers trying to find a replacement for the pesticide.

"It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables. We thank our colleagues at EPA for their hard work," said Sheryl Kunicki, the agency's director of pesticide control.

AP

http://hosted.ap.org/dynamic/stories/U/US_ENVIRONMENTALISTS_CLIMATE_PLAN?SITE=AP&SECTION=HOME

Environmental groups file lawsuit over Trump climate actions

By Tammy Webber and Matthew Brown 3/29/17 6:20 PM

CHICAGO (AP) -- Environmental groups that vowed to fight President Donald Trump's efforts to roll back his predecessor's plans to curb global warming made good on their promise Wednesday, teaming up with an American Indian tribe to ask a federal court to block an order that lifts restrictions on coal sales from federal lands.

The Interior Department last year placed a moratorium on new coal leases on federal lands to review the climate change impacts of burning the fuel and whether taxpayers were getting a fair return. But Trump on Tuesday signed a sweeping executive order that included lifting the moratorium, and also initiated a review of former President Barack Obama's signature plan to restrict greenhouse gas emissions from coal-fired power plants.

Environmentalists say lifting the moratorium will worsen climate change and allow coal to be sold for unfairly low prices.

"It's really just a hail Mary to a dying industry," said Jenny Harbine, an Earthjustice attorney who filed the lawsuit in U.S. District Court in Montana on behalf of the Northern Cheyenne Tribe, Sierra Club, and Center for Biological Diversity.

The White House did not immediately respond to an email seeking comment on the lawsuit. The Department of Justice declined comment.

Environmental groups have been preparing for months to fight the Trump administration's environmental rollbacks, including by hiring more lawyers and raising money. Trump, who has called global warming a "hoax" invented by the Chinese, said during his campaign that he would kill Obama's climate plans and bring back coal jobs.

Advocates said they also will work to mobilize public opposition to the executive order, saying they expect a backlash from Americans who worry about climate change.

"This is not what most people elected Trump to do," said David Goldston, director of government affairs at the Natural Resources Defense Council. "Poll after poll shows that the public supports climate action."

A poll released in September found 71 percent of Americans want the U.S. government to do something about global warming, including 6 percent who think the government should act even though they are not sure that climate change is happening. That poll, which also found most Americans are willing to pay a little more each month to fight global warming, was conducted by The Associated Press-NORC Center for Public Affairs Research and the Energy Policy Institute at the University of Chicago.

While Republicans have blamed Obama-era environmental regulations for the loss of coal jobs, federal data show that U.S. mines have been losing jobs for decades because of automation and competition from natural gas; solar panels and wind turbines now can produce emissions-free electricity cheaper than burning coal.

But many people in coal country are counting on the jobs that Trump has promised, and industry advocates praised his orders.

"These executive actions are a welcome departure from the previous administration's strategy of making energy more expensive through costly, job-killing regulations that choked our economy," said U.S. Chamber of Commerce President Thomas J. Donohue.

Trump's order also will initiate a review of efforts to reduce methane emissions in oil and natural gas production, and will rescind Obama-era actions that addressed climate change and national security and efforts to prepare the country for the impacts of climate change. The administration still is deciding whether to withdraw from the Paris Agreement on climate change.

And on Wednesday, the administration asked a federal appeals court to postpone a ruling on lawsuits over the Clean Power Plan, the Obama initiative to limit carbon from power plants, saying it could be changed or rescinded.

A coalition of 16 states and the District of Columbia said they will oppose any effort to withdraw the plan or seek dismissal of a pending legal case, while environmental advocates said they're

also ready to step in to defend environmental laws if the U.S. government does not.

"The president doesn't get to simply rewrite safeguards; they have to ... prove the changes are in line with the law and science," said the NRDC's Goldston. "I think that's going to be a high hurdle for them."

Environmentalists say Trump's actions will put the U.S. at a competitive disadvantage to other countries that are embracing clean energy, which they say could create thousands of new jobs.

Even so, they believe efforts to revive coal ultimately will fail because many states and industries already have been switching to renewable energy or natural gas.

"Those decisions are being made at the state level and plant by plant," said Earthjustice President Trip Van Noppen, who said his group is "continuing to work aggressively to retire dirty coal plants."

"Coal is not coming back," Van Noppen added. "While the president is taking big splashy action, he is actually doomed to fail."

AP

http://hosted.ap.org/dynamic/stories/U/US_CONGRESS_EPA?SITE=AP&SECTION=HOME&TEMPLATE=D

House approves bill to force public release of EPA science

3/29/17 5:56 PM

WASHINGTON (AP) -- House Republicans are taking aim at the Environmental Protection Agency, targeting the way officials use science to develop new regulations.

A bill approved Wednesday by the GOP-controlled House would require that data used to support new regulations to protect human health and the environment be released to the public.

Rep. Lamar Smith, R-Texas, said "the days of 'trust me' science are over," adding that the House bill would restore confidence in the EPA's decision-making process.

Connecticut Rep. Elizabeth Esty and other Democrats said the bill would cripple EPA's ability to conduct scientific research based on confidential medical information and risks privacy violations by exposing sensitive patient data.

The bill was approved 228-194 and now goes to the Senate.

Reuters

<http://www.reuters.com/article/us-usa-pesticide-epa-idUSKBN17039F>

U.S. EPA denies petition to ban pesticide chlorpyrifos

3/29/17 7:55 PM

The U.S. Environmental Protection Agency said on Wednesday it had denied a petition by environmental groups that sought to ban the agricultural pesticide chlorpyrifos.

In October 2015, the Obama administration proposed to revoke all food residue tolerances for chlorpyrifos, an active ingredient in insecticides. The proposal was issued in response to a petition from the Natural Resources Defense Council and Pesticide Action Network North America, the EPA said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," EPA Administrator Scott Pruitt said in the statement.

Reuters

<http://www.reuters.com/article/us-volkswagen-emissions-idUSKBN17102C>

Volkswagen says U.S. approves sale of modified diesel vehicles

By David Shepardson 3/30/17 9:59 PM

Volkswagen AG (VOWG_p.DE) said the U.S. Environmental Protection Agency has approved its request to sell up to 67,000 diesel vehicles from the 2015 model year, including about 12,000 currently in dealer inventory with approved emissions modifications.

The vehicles in inventory were held when the company issued a stop sale in September 2015, Volkswagen spokeswoman Jeannine Ginivan told Reuters.

Ginivan said the company was finalizing details of the program.

The EPA approved a fix for about 70,000 Volkswagen diesel vehicles in January.

An EPA spokeswoman declined to comment on the matter.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-29/trump-s-coal-revival-will-make-it-harder->

to-breathe

Trump's Coal Revival Will Make It Harder to Breathe

By David Shipley 3/29/17 5:06 PM

President Donald Trump's effort to prop up the coal industry will not, over the long run, succeed -- the energy market will make sure of that. But it could impede America's progress toward stabilizing the climate, and it will certainly harm public health.

Burning coal, after all, releases a lot more bad stuff into the air than just carbon dioxide. There's also mercury, which makes its way into rivers and streams, where it's eaten by fish and, in turn, by people -- poisoning brains and nervous systems, especially those of developing fetuses.

And then there's sulfur dioxide, nitrogen oxide, any number of other volatile compounds, and particles of metal and chemicals. Aloft, this mess combines with sunlight to form smog. More than 7,500 Americans die from breathing it every year.

The Clean Power Plan -- an initiative of former President Barack Obama, and the principal target of Trump's efforts -- would have prevented as many as 3,600 premature deaths a year by 2030, according to the Environmental Protection Agency. That plan is now tied up in litigation, but Trump proposes to do away with it altogether.

It's not clear that he can, because it will require making a reasonable argument for why the EPA should suddenly stop regulating greenhouse gases. But it's a bad idea even to try.

Coal power is already dying of other causes, including the Sierra Club's Beyond Coal campaign effort (funded by Michael R. Bloomberg) to close coal-fired energy plants, and coal's failure lately to stay competitive with natural gas and even wind and solar power.

With his executive order doing away with most of the Obama administration's efforts to discourage coal use, Trump may be able to slow coal's slide. But he can't return it to its former status as America's main power source. And, because of increasing automation, he won't save coal-mining jobs. Even judged by the claims Trump makes for it, this policy is poised to accomplish nothing at all.

The Hill

<http://thehill.com/policy/energy-environment/326380-house-votes-to-restrict-epas-use-of-science>

House votes to restrict EPA's use of science

By Timothy Cama 3/29/17 4:57 PM

The House voted Wednesday to restrict the kind of scientific studies and data that the Environmental Protection Agency (EPA) can use to justify new regulations.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, passed 228-194. It would prohibit the EPA from writing any regulation that uses science that is not publicly available.

It's the latest push by House Republicans to clamp down on what they say has turned into an out-of-control administrative state that enforces expensive, unworkable regulations that are not scientifically sound.

Even with President Trump in the White House, the GOP feels it's important to make lasting changes to how regulations are written and justified.

The House earlier this year passed a pair of bills to rein in regulations across government — the Regulations from the Executive in Need of Scrutiny (REINS) Act and the Regulatory Accountability Act.

But Democrats, environmentalists and health advocates say the HONEST Act is intended to handcuff the EPA. They say it would irresponsibly leave the EPA unable to write important regulatory protections, since the agency might not have the ability to release some parts of the scientific data underpinning them.

The HONEST Act is similar to the Secret Science Act, which leaders in the House Science Committee sponsored in previous congresses and got passed.

"This legislation ensures that sound science is the basis for EPA decisions and regulatory actions," Rep. Lamar Smith (R-Texas), chairman of the Science Committee, said on the House floor Wednesday.

"The days of 'trust-me' science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review," he said. "That's called the scientific method."

Smith framed his bill as an extension of the highly-regarded quest to use the best science to inform regulators.

He said the EPA — particularly under former President Obama — often hid the data it used in regulations, preventing the public and peer scrutiny that helps ensure the science is the best available.

"We all care about the environment," he said. "But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain."

The bill would also require that any scientific studies be replicable, and allow anyone who signs a confidentiality agreement to view redacted personal or trade information in data.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee's top Democrat, slammed her GOP colleagues for what she called a "misguided" effort to stop sensible EPA regulations.

She denied that the EPA is overly secretive with its science, saying it often doesn't own the information and has no right to release it.

"The secret science bills the Republicans tried to enact over the previous two congresses were insidious bills, designed from the outset to prevent EPA from using the best available science to meet its obligations under the law. Those bills were constructed to hamstring the ability of EPA to do about anything to protect the American public," she said.

The latest iteration adds the redactions and the ability to view redacted information, which Johnson called "a Pandora's Box, which could have untold consequences for the EPA, industry and the general public," including restricting the EPA's ability to gather information.

"In reality, this bill isn't about science. It's about undermining public health and the environment," she said.

Republicans on the Science Committee passed the bill earlier this month, alongside another bill to reform the EPA's Science Advisory Committee. The advisory panel would be required to have geographic diversity and representatives from certain stakeholder groups.

The full House is likely to consider that bill soon.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/epa-denies-chlorpyrifos-petition-085664>

EPA denies chlorpyrifos petition, scrapping Obama era finding of health risks

By Jenny Hopkinson 3/29/17, 7:51PM

The EPA has denied a petition from environmentalists calling for a ban on the pesticide chlorpyrifos, bucking the Obama administration's findings that the chemical poses health risks.

In a notice posted to its website Wednesday evening, the agency says it will address the questions raised in the petition during a broader review of the pesticide that it expects to finish in

2022. That review will consider the concerns about potential neurodevelopmental toxicity in children that were raised in the 2007 petition from the Pesticide Action Network North America and the Natural Resources Defense Council.

The decision is a reversal from a November 2016 proposal from the EPA under then-President Barack Obama that called for revoking the pesticide's permitted tolerances — the amount of residue that can be found on crops and produce — which would have effectively banned chlorpyrifos in agricultural uses. The agency was under a court-ordered deadline to respond to the petition by Friday.

"Despite several years of study, the science addressing neurodevelopmental effects remains unresolved," EPA wrote in the notice. It said that "further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos."

The decision added that "EPA has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues."

InsideEPA

<https://insideepa.com/daily-news/epa-weighs-tapping-superfund-site-accounts-offset-fy18-budget-cuts>

EPA Weighs Tapping Superfund ‘Site’ Accounts To Offset FY18 Budget Cuts

By Suzanne Yohannan 3/29/17

EPA officials are considering offsetting massive proposed cuts to the Superfund cleanup program in fiscal year 2018 by borrowing from “special accounts” -- site-specific accounts funded from settlements with responsible parties -- to offset any cuts and apply the money more broadly to pay for cleanup needs in the coming year.

EPA's acting waste chief Barry Breen told a Senate panel hearing March 29 on cleaning up Cold War legacy sites that the agency is "looking for ways we can go deeper into using accounts that the Treasury Department has allowed us to set up."

"These are interest-bearing savings accounts with the U.S. Treasury where we have put money that defendants have given us we've deposited there and we can draw on," he said in response to a question from Sen. Mike Rounds (R-SD).

Breen said the agency is eyeing the approach because Congress has labeled Superfund "no-year money," noting that the agency does not have to spend all that it is given in a particular year. "So we can look to prior years' funding in order to fund needs in future years," he said.

He added that EPA will also "be looking for efficiencies administratively, efficiencies in the way we move funding among accounts, and more, in order to get as much progress for the public as we can."

While it is not clear how the agency plans to repay any funds it taps, advancing the approach may be crucial for Administrator Scott Pruitt, who has pledged to speed cleanups and delist sites from the National Priorities List. But he may be stymied by [White House plans](#) to slash \$330 million, or 30 percent, from Superfund cleanup spending in FY18.

The administration has also proposed to cut \$30 million from the \$500 million the program was slated to receive in FY17, saying the additional cuts "will ease the program into further reductions in FY 2018."

Given such cuts, the special accounts could prove to be a significant source of funds. A 2009 report from EPA's Office of Inspector General (OIG) said at that time there was a surplus of \$1.1 billion spread over 819 special accounts.

Sources now say the surpluses may be even larger. For instance one account alone, stemming from the Obama administration's settlement with Anadarko Petroleum Corp., includes more than \$1 billion intended to address abandoned uranium mining sites on tribal land.

Special Accounts

But the plan to tap funds from the special accounts is drawing mixed reviews from attorneys and some private parties.

One attorney questions whether taking money dedicated to a particular site through a special account and using it for other sites would be a breach of contract, or in effect violate specific settlement terms. Special accounts “have been able to insulate these sites from the vagaries of the budgetary process,” the attorney says.

The attorney says the goal is to raid special accounts and move that money over to the Superfund trust fund, which would allow for the administration to request lower budgets from congressional appropriators. “It takes away money dedicated for sites that would not be available for the [Superfund] trust fund,” the source says.

An industry source downplayed such concerns but nevertheless acknowledged potential “risk” that the money would not be easily repaid if the budget were not to stabilize in future years.

“It’s an accounting matter, not a welching on the deal matter,” the source says. The money could be used now, with the understanding that it will not void future obligations by EPA to repay accounts from which it has borrowed money. This source says that obviously this could not be done every year because of the risks of being unable to pay back the accounts.

The industry source concedes EPA's approach assumes that the budget will become more stable over time so the funds can be repaid, but that there is a risk with taking this position because EPA's budget may not be restored. The source says EPA is probably “making a reasonable risk calculation.”

Cleanup Appropriations

Superfund special accounts are separate from the appropriations EPA receives for the cleanup program. Funds appropriated by Congress are dedicated to fund-lead site cleanups, removal actions, pre-remedial work and personnel, the attorney says.

Superfund special accounts, by contrast, are often set up in response to court-sanctioned settlement agreements, where settlement monies from potentially responsible parties (PRPs) are placed into a special account, to be drawn from for cleanup at the specific site for which the PRPs were liable, according to sources familiar with the mechanism.

Section 122(b)(3) under the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) authorizes EPA to retain and use settlement funds to address cleanups specified in the settlement agreement, EPA's OIG says in the 2009 report on the topic.

It notes that the agency places these funds in interest-bearing, site-specific accounts known as "special accounts."

For instance, these can include situations where smaller contributors at a site cash out and settle with EPA for their share of cleanup costs, according to an industry source. The money is then put into a special account.

The major PRPs at the site then perform 100 percent of the cleanup, and are supposed to be reimbursed from the account for the portion of cleanup for which they were not responsible, although EPA has often been slow to reimburse due to claims of further cleanup requirements at the specific site, the industry source says.

But the accounts and EPA's handling of them has come in for criticism. For example, the OIG has pressed EPA to "reclassify" at least some special account funds -- specifically those the agency held as "reserves" -- to support other priority sites, particularly sites for which human exposure is not under control.

In the 2009 report, the OIG sought improvements to the agency's handling of special accounts,

saying its uncoordinated approach “led to missed opportunities to fund needed Superfund cleanups” and previously had recommended that \$59 million of “idle special account funds be reclassified or transferred” to the Superfund trust fund.

'External Audit'

The accounts have also drawn criticisms from top former Trump transition team officials, who are urging the administration to tap the funds.

“EPA should review the Superfund special accounts and probably then commission an external audit,” Myron Ebell, who led the Trump transition team at EPA, told *Inside EPA*. Ebell, who has now returned to the free-market Competitive Enterprise Institute, said he does not know Pruitt’s views on the matter or what EPA is planning.

Ebell had previously told the *Daily Caller*, a conservative news organization, in 2016 that the special accounts are “the very definition of an out-of-control agency, if they can raise their own money and not have to go to Congress to have it appropriated.”

The news outlet had labeled the accounts “akin to slush funds,” which may have been the impetus for the Trump beachhead team to collect information on the accounts from EPA staff during the transition, informed sources say.

Despite such criticism, the attorney says the site-specific accounts have provided benefits. In addition to funding cleanups, the special accounts have been used to pay for EPA employees. These employees would likely have to be let go, while cleanup at the special account sites “could slow depending on how much money is made available to the site from the trust [fund] and who is doing the cleanup” -- whether EPA or PRPs.

This source believes that sites where PRPs are responsible for conducting cleanups may not be affected because money from settlements with smaller PRP contributors is being used to reduce the liability of PRPs performing the full cleanup. But this source foresees problems at sites where EPA is performing the work, paid for by PRPs into a settlement special account. If the money is transferred, then EPA will not be able to pay the cleanup contractors, the source says. -- *Suzanne Yohannan* (syohannan@iwpnews.com)

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Huffington Post

http://www.huffingtonpost.com/entry/epa-air-quality-studies_us_58dc3a27e4b08194e3b71ab3

Top Scientists Defense EPA Air Pollution Studies As Politicians Attack Science

By Alexander C Kaufman 3/29/17, 7:39PM

Over a year ago, the Environmental Protection Agency asked the country's top scientific body to pore over six years of studies into how air pollution affects human health. It was a move meant to quell critics who questioned the safety of conducting such research.

The National Academies of Sciences, Engineering, and Medicine finally released its findings on Tuesday, offering a resounding endorsement of the EPA's protocol for conducting tests on human subjects, along with a few suggestions on how to make the tests safer.

The 159-page report makes for humdrum reading, but its timing injects the analysis with a sense of urgency. Lawmakers emboldened by the Trump administration's assault on environmental regulations have moved to change the way science is used to draft policy to open the door to more industry-friendly or ideologically driven research.

Last month, the House Committee on Science, Space and Technology invited a coal lawyer, a chemical industry lobbyist and a libertarian scholar who has accused the EPA of "regulatory terrorism" to testify alongside a lone advocate for science as witnesses before a congressional hearing titled "Making EPA Great Again." On Tuesday, the committee's chairman, Rep. Lamar Smith (R-Texas), convened another hearing, "Climate Science: Assumptions, Policy Implications, and the Scientific Method," will "examine the scientific method and process as it relates to climate change" and "focus on the underlying science that helps inform policy decisions," according to a hearing charter. To do that, Smith fleshed out his four-person panel with a trio of prominent, like-minded climate change skeptics and attacked the credibility of Science magazine.

The report released Tuesday assesses the treatment of more than 800 participants across 21 studies the EPA conducted from 2009 to 2016, and how that research influenced policies to protect the public from toxic air pollution. But the takeaway can be applied to the agency's overall use of science in rule-making, according to Robert Hiatt, chair of the epidemiology and biostatistics department at the University of California, San Francisco.

"The studies the EPA conducts are valuable," Hiatt, the report's lead author, told The Huffington Post by phone Monday. "They contribute knowledge to making important decisions for the public."

He said the timing of the report, commissioned roughly 18 months ago by the Obama administration's EPA, was a fluke.

"It is totally bizarre and coincidental that, at the same time, this issue has come to the floor on the national political scene," Hiatt said. "The fact that they're colliding this week is totally by chance. But the relevant information is still important."

Hiatt and his team of 14 other researchers dug deep into eight experiments in particular, called controlled human inhalation exposure, or CHIE, studies that typically subject participants to hours of a pollutant to see how it affects lung function. The results of those studies are used to set EPA standards for air quality under the Clean Air Act.

The agency's scientific methods, however, weren't without flaw. In one study, Hiatt found that a 58-year-old woman suffered an irregular heartbeat during a test. Doctors immediately hospitalized her, and she was discharged two hours later when she was determined to be fine. It's not clear whether her heart rate hastened by exposure during the test or by chance due to chronic disease. Hiatt recommended EPA researchers increase the amount of information given to participants before tests. But the incident marked the only one of 845 cases that went awry, and Hiatt said researchers handled it appropriately.

"The safety of the individual was never in question," Hiatt said. "It now becomes a political decision by the country's deciders about what to do with this information."

Washington Examiner

<http://www.washingtonexaminer.com/trump-asks-federal-judges-to-delay-ruling-on-obama-era-climate-plan/article/2618799>

Trump asks federal judges to delay ruling on Obama-era climate plan

By John Siciliano 3/29/17 3:44 PM

The Justice Department is prodding federal appeals court judges to delay their ruling on the Obama-era Clean Power Plan until the Environmental Protection Agency has time to tweak the plan itself using President Trump's latest executive order as a guide.

A delay would help the Trump administration ensure that the judges don't rule favorably on any aspect of the rule that they are likely to gut in the coming months.

"EPA should be afforded the opportunity to fully review the Clean Power Plan and respond to the president's direction in a manner that is consistent with the terms of the executive order, the Clean Air Act, and the agency's inherent authority to reconsider past decisions," federal attorneys argued in a brief sent to the court Wednesday.

Deferral of further judicial proceedings is thus warranted," the brief said.

Trump's energy independence order signed on Tuesday directed EPA chief Scott Pruitt to begin a review of the Obama administration's climate plan toward the eventual goal of rescinding it. Meanwhile, a 10-judge panel of the D.C. Circuit Court of Appeals is reviewing a lawsuit by 28 states and hundreds of industry groups opposing the regulation.

The court is expected to issue a decision in the coming months, and it is unclear if it will grant the Justice Department's request.

The brief explained to the court that the EPA is closely evaluating the Clean Power Plan, in which "the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions."

The prior positions of the EPA represented in the court were that of the Obama administration, which was defending the regulation from states' claims that the EPA overstepped the limits of its authority in drafting the regulation, and that the climate plan was unconstitutional.

Pruitt, who was formerly the attorney general of Oklahoma, was a lead voice in opposing the Clean Power Plan in the litigation before the D.C. Circuit court ahead of becoming the administrator of the EPA.

The Clean Power Plan was halted by the Supreme Court over a year ago, which states suing the agency took as vindication that the high court agreed with its claims, though the court did not lay out the reasons for staying the plan.

The plan requires that states reduce their greenhouse gas emissions a third by 2030 to help curb the effects of global warming.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; Jefferson, Gayle[Jefferson.Gayle@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Thur 3/30/2017 2:08:37 PM
Subject: OPA Clips 3/30/17

Note: Chlorpyrifos clips are included in OPA Clips.

Below: Bloomberg BNA, Politico, The Hill, LA Times, Bloomberg BNA (3), Bloomberg, E&E News (4), Washington Post (2), Huffington Post, Daily Caller, New York Times (3/29), Washington Post (3/29), InsideEPA (3/29), Agri Pulse (3/29), DTN (3/29), Washington Examiner (3/29), AP (2) (3/29), Reuters (2) (3/29), Bloomberg (3/29), The Hill (3/29), Politico (3/29), InsideEPA (3/29), Huffington Post (3/29), Washington Examiner (3/29)

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215045&vname=dennotallissues&wsn=49950550

EPA Won't Ban Controversial Dow Pesticide

By Tiffany Stecker 3/23/17

The EPA has reversed course in its effort to restrict a widely used, insect-controlling pesticide, backpedaling on one of the Obama administration's key initiatives to lower pesticide exposure.

The Environmental Protection Agency will deny a decade-old petition from environmental groups to revoke all uses, called "tolerances," of chlorpyrifos on food, EPA Administrator Scott Pruitt announced March 29. The insecticide is an important crop protection tool for fruit,

vegetable and row crop growers.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making—rather than predetermined results.”

The agency released its decision two days before a court-ordered deadline to act on the 2007 petition from the Pesticide Action Network and the Natural Resources Defense Council. The Department of Justice is expected to file its response to the U.S. Court of Appeals for the Ninth Circuit by the end of the week.

Another Blow to Obama's Green Legacy

The farm and landscaping insecticide was developed by Dow AgroSciences and first registered by the EPA in 1965. Environmentalists have sought to end use of the chemical, which they say has been linked to neurodevelopmental delays in children, for decades.

In denying the petition, the EPA said it disagreed with the methodology used by the previous administration to justify what amounts to a near-ban of the chemical.

The agency issued a proposed rule to revoke the tolerances in 2015, using its authority in the 1996 Food Quality Protection Act. The agency based part of its scientific justification for doing so on epidemiological studies that measured levels of the chemical in exposed women and children.

Under former Administrator Gina McCarthy—President Obama's second nominee to run the agency—the EPA worked to solidify the scientific justification for revoking the tolerances, including a human health risk assessment that relied in part on a controversial epidemiological study from Columbia University on children's health effects.

Epidemiologists say these population studies record changes in learning and behavior that can't be traced in the rodent experiments that historically serve as the basis for the EPA's pesticide regulations. But the chemical industry argues that epidemiological studies are difficult to control, and adverse outcomes can be attributed to a range of diet, lifestyle and other environmental factors.

Dow criticized the EPA for relying specifically on an epidemiological study from Columbia University that found that chlorpyrifos affected brain development in New York City children exposed in utero. The study's data was kept confidential by the university, prompting Dow and other industry groups to ask the EPA not to rely on the observations.

The company swiftly applauded the EPA decision.

“Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide

margins of protection for human health and safety,” spokesman David Sousa said in a statement.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/epa-pursuing-mindboggling-timeline-in-wotus-rewrite-154724>

Sources: trump admin aiming for new WOTUS rule by year’s end

By Annie Snider 3/30/17, 5:01AM

The Trump administration is pressing EPA to replace the Obama administration’s Waters of the U.S. rule by the end of this year, according to multiple sources with knowledge of the plan — a lightning-speed timeline that legal experts say could shortcut key steps and make the effort vulnerable in court.

EPA Administrator Scott Pruitt recently convened a meeting on the future of the WOTUS rule, where he told agency water staffers to have an initial rewrite ready by this summer, according to one source with knowledge of his instructions. Agency employees have been telling states, environmentalists and industry groups to expect things to move “on a very fast pace.” The source called the expectation to issue a proposed rule within a few months “mind-boggling.”

Pruitt's predecessors took a much more deliberate approach, knowing that any rule attempting to clarify the legal morass of Clean Water Act jurisdiction would almost certainly end up at Supreme Court.

The Obama administration spent years grappling with where to draw the lines, crafting a legal rationale, and building a mass of scientific and technical reports to back up their approach before ultimately proposing its rule in April 2014. EPA then took 14 months to collect and respond to more than one million public comments, meet with more than 400 outside groups, draft changes to the rule and shepherd it all through the interagency review process.

The timeline being mulled by the Trump administration would give agency staff just a few months to put the foundation of the rule in place. An EPA spokeswoman said only that “discussions are ongoing.”

Part of the reason the Obama administration took so long is because it produced lengthy supporting documents, even though most were not mandated by law. Those included a 90-page regulatory impact analysis and an exhaustive scientific report and technical support document, both of which clocked in around 400 pages each.

Trying to finish a new rule this year means the Trump administration would have to skip most of those steps, potentially making its rule more vulnerable to being overturned in court, said Patrick Parenteau, a Vermont Law School professor.

“The more they start cutting corners and not going back through the same process they did to do the [Obama administration] rule, the greater risk they’re going to be overturned,” he said.

Making EPA’s job even more difficult is the fact that the agency is being asked to base its new rule on a potentially shaky legal interpretation.

The last time the Supreme Court weighed the limits of the Clean Water Act's jurisdiction was in the 2006 case *Rapanos v. United States*, where justices failed to reach a majority decision. The late Antonin Scalia led the court’s four conservative justices in a plurality opinion setting a restrictive test for waterways to fall under federal protection, while the court’s four liberal justices voted for broad federal jurisdiction. Justice Anthony Kennedy, the court's traditional swing vote, joined the conservative justices in their ruling, but he wrote his own, stand-alone opinion setting a broader test that would make streams and wetlands jurisdictional if they have a “significant nexus” to larger downstream waters.

None of the nine federal appeals courts that have weighed the issue have decided that Scalia's line of reasoning would stand on its own. But President Donald Trump directed EPA to look to Scalia's opinion in his executive order requesting a WOTUS rewrite, and sources familiar with instructions to agency staffers say they've been told to rely solely on Scalia's test.

Courts have generally ruled that Kennedy’s test is the one that must be followed, although a handful have concluded that if a waterway meets either the Kennedy or the Scalia test, it falls under federal power. The Obama administration wrote its rule to meet Kennedy’s test, and the

George W. Bush administration had also focused on Kennedy in its 2008 guidance on the topic.

Legal experts generally argue that it will take some fancy footwork for the Trump administration to argue that Scalia's test should take precedence.

But Reed Hopper, an attorney for the Pacific Legal Foundation who has successfully argued the *Rapanos* case before the Supreme Court, said that rewriting the rule doesn't have to be that complicated.

"I think there isn't going to be much of a problem: Look at the act, see what it says, recognize that there are constitutional constraints," he said. He also pointed out that the Supreme Court has overturned lower courts on several recent wetlands cases, including one he argued last year in which the justices ruled that courts can review the federal government's jurisdictional determinations.

Reed argued that EPA could quickly rewrite WOTUS if it throws enough manpower into the effort.

But that could pose a challenge, since the Trump administration has been slow to staff up. Pruitt has only a small cadre of political allies at the agency so far, and key slots in the Office of Water and General Counsel's office are sitting empty. The Army Corps of Engineers, which will need to at least supply data for the rewrite effort, is likewise without a political leader.

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The Hill

<http://thehill.com/policy/energy-environment/326465-epa-head-wont-ban-controversial-pesticide>

EPA head won't ban controversial pesticide

By Timothy Cama 3/30/17 9:31 AM

The head of the Environmental Protection Agency (EPA) on Wednesday decided against

banning the use of the pesticide chlorpyrifos on fruits and vegetables.

EPA Administrator Scott Pruitt's decision represents a course reversal from the Obama administration, which proposed the ban in 2015, based on its scientific findings of neurological harm from exposure to it.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a late Wednesday statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results," he said.

Pruitt's decision matches what Dow Chemical Co., which sells the pesticide under the brand name Lorsban, sought in a January letter to the agency. Dow accused the Obama EPA of short-circuiting its scientific review process for pesticides, including in areas like transparency and peer review.

Farmers use chlorpyrifos to kill insects and some plant pests on numerous crops, including some meant for human consumption. It has been in use since 1965, but most household uses were phased out in 2001.

Research in recent years has linked the pesticide to nervous system and brain problems, including lowered brain function in some children exposed to it before birth.

The EPA under Obama proposed in 2015 to ban chlorpyrifos's use on food crops, responding to a petition and lawsuit from the Natural Resources Defense Council (NRDC) and other groups.

"With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains," a coalition wrote to the agency this year.

But Dow objected, as did agricultural interests.

"EPA's proposal appears to be a retreat from its statutory obligation that, when evaluating pesticides for registration, it balances the risk of those active ingredients against their benefits to farmers specifically, and to the public generally, when they do not pose an unreasonable risk to health or the environment," the American Farm Bureau Federation told the agency.

Groups that pushed for the ban slammed Pruitt's decision

"The Trump administration is putting the needs of chemical corporations before children's health," NRDC senior scientist Miriam Rotkin-Ellman said in a statement.

“Parents shouldn’t have to worry that a dangerous chemical might be lurking in the fruits and veggies they feed their kids,” she said. “We will hold EPA accountable to protecting the American people from industries that can do us grave harm. The health of our children depends on it.”

NRDC and its could ask the Court of Appeals for the Ninth Circuit, the court where it previously sued the EPA to force a decision, to review Pruitt’s final determination.

LA Times

<http://www.latimes.com/business/la-fi-pesticide-epa-201703230-story.html>

Trump administration reverses course on nerve-agent pesticide

By Geoffrey Mohan 3/30/17, 4:00AM

The U.S. Environmental Protection Agency on Wednesday reversed an Obama administration recommendation to ban a pesticide linked to nervous system damage in children.

Newly installed EPA administrator Scott Pruitt signed an order that would allow farmers to continue using chlorpyrifos, which is sprayed on more than a dozen crops, including tree nuts, soybeans, corn, wheat, apples and citrus.

The Obama administration had announced in 2015 that the agency would adopt a “zero tolerance” policy for residue of the chemical on food, a move that effectively would have ended its use.

“By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results,” Pruitt said of the decision.

Pruitt’s action came in response to complaints by the agricultural and chemical industries that the Obama administration had cut short a review of the scientific evidence about the chemical’s effects on humans. The administration was under pressure from an order by the U.S. 9th Circuit Court of Appeals to speed up its ruling on the safety of the chemical.

The court order sprang from lawsuits by the Pesticide Action Network and Natural Resources Defense Council, which had petitioned the EPA in 2007 to ban the chemical. Pruitt denied that petition Wednesday.

Kristin Schafer, policy director at Pesticide Action Network, accused EPA of caving to corporate pressure.

“The new administration’s agency ignored their own findings that all exposures to chlorpyrifos on foods, in drinking water, and from pesticide drift into schools, homes and playgrounds are unsafe,” Schafer said.

The U.S. Department of Agriculture praised Pruitt’s action.

“This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States,” said Sheryl Kunickis, director of the USDA’s Office of Pest Management Policy. “It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables.”

About 5 million to 10 million pounds of chlorpyrifos, manufactured by DowAgroSciences, are used annually on crops nationwide. The chemical is an organophosphate, a class of chemicals originally designed as a nerve agent weapon.

Chlorpyrifos has been banned from consumer products and residential use nationwide for more than 15 years. Several studies have suggested it can impair cognitive development in children. A UC Berkeley study found that 7-year-old children in the Salinas Valley who were exposed to high levels during pregnancy had slightly lower IQ scores than their peers. A Columbia University study showed similar effects at lower exposure.

In 2006, the EPA revised its tolerance levels for the chemical and limited the crops on which it can be applied.

In California, the Department of Pesticide Regulation restricted use of chlorpyrifos in 2015, requiring licensing, training and oversight by county agriculture commissions. It also tightened buffer zone requirements around fields where the chemical was applied, and banned its use near schools and other facilities when winds exceed 10 miles per hour.

Use of the chemical in California declined from a peak of more than 2 million pounds in 2005 to about 1.1 million in 2012, but rose to nearly 1.5 million pounds in 2013, the last year for which complete data were available, according to the state Department of Pesticide Regulation.

Environmental activists attribute the increase to the rise in almond production, which has been increasing rapidly in counties where the chemical is most heavily applied, according to the National Agricultural Statistics Service.

More than 500,000 pounds of the chemical were applied to crops in Kern and Fresno counties in 2013, by far the biggest users of the pesticide, according to the state Department of Pesticide Regulation.

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Trump's Climate Order Didn't Touch Several Obama-Era Programs

By David Schultz 3/30/17

The Trump administration rolled back many of its predecessor's signature climate change measures with an energy-focused executive order, but the order was notably silent on several Obama-era climate programs that don't affect the energy industry.

Trump's March 28 order either rescinded or began the process of rescinding numerous regulations on power plants, oil and gas drillers, coal miners and others in the energy sector.

But his executive order left untouched several other Obama-launched initiatives meant to combat climate change. These include measures that affect the chemicals, waste management, agriculture and aviation industries, and some of these measures impose significant costs on those industries.

The fact that Trump is willing to let these Obama-era measures stand—at least for now—indicates his White House may be taking a less dogmatic stance toward climate change than one would expect, given the many statements of climate skepticism that have come from administration officials and from the president himself.

The Trump administration did not respond on the record to a request for comment for this story.

Chemicals

The executive order leaves intact the Obama administration's ban on a type of refrigerant chemical called hydrofluorocarbons, or HFCs. These chemicals were targeted in Obama's 2013 Climate Action Plan because, while they are a small contributor to climate change, they are also highly potent greenhouse gasses that trap 1,000 times more heat in the atmosphere than the same amount of carbon dioxide.

The ban's exclusion from the executive order comes as little surprise, since just weeks earlier Trump administration attorneys went to court to defend it against a legal challenge from HFC manufacturers (*Mexichem Fluor Inc. v. EPA*, No. 15-01328 (D.C. Cir. 2/17/17)).

David Doniger, an attorney with the Natural Resources Defense Council, said Trump's defense of his predecessor's HFC ban betrays the White House's contradictory stance toward the issue of a warming planet.

“They seemed to draw a distinction: ‘Climate change is a hoax when it involves the energy industry, but not a hoax when it involves the chemicals industry,’” Doniger said at a March 22 D.C. Bar panel discussion.

Landfills

Though Trump's executive order took aim at a number of regulations on methane emissions, it didn't address a particular regulation on methane emissions from landfills that the Environmental Protection Agency finalized last year. The waste management industry is challenging this regulation in federal court, arguing that its emissions thresholds are too difficult to meet (*Nat'l Waste and Recycling Ass'n v. EPA*, No. 16-01371 (D.C. Cir. 10/27/16)).

The lead plaintiffs in this case said they didn't anticipate the Trump administration to pull back this EPA landfill rule in his executive order.

“There wasn't a big expectation on our part,” Anne Germain, a director with the National Waste and Recycling Association, told Bloomberg BNA. “The president is really trying to focus [deregulation efforts] on energy production and isn't targeting methane holistically.”

Aviation

Significantly, Trump's executive order did not instruct the EPA to rescind its 2009 finding that carbon dioxide is a pollutant, a landmark document that laid the basis for nearly all of the agency's climate regulations during the Obama era.

The order also did not nullify a much narrower EPA finding from last year on the pollution effects of greenhouse gas emissions from airplanes. This finding triggers a legal requirement that the EPA establish limits on airplane emissions.

The aviation industry has come out in favor of imposing these regulations on its own planes. It wants U.S. rules on greenhouse gases to be harmonized with soon-to-be-established international standards, which the industry will have to comply with regardless of what Trump's EPA does.

Agriculture

The executive order also gave no indication that Trump will put a halt to the work federal agencies have been doing on promoting biogas generation, another of the priorities listed in Obama's Climate Action Plan.

Since 2014, the EPA has been working with the Departments of Agriculture and Energy to help livestock farmers turn the waste from their animals into biogas fuel, rather than allowing it to decompose into climate-harming methane. A joint 2014 report from the agencies laid out a plan to promote this practice by allocating loans to farmers and grants to biogas researchers, among other measures.

Patrick Serfass, head of the trade group American Biogas Council, said his emerging industry was likely excluded from the executive order because of many other economic benefits to biogas generation, aside from reducing methane emissions.

“We don't have to talk about the climate benefits to make a really compelling point as to why it's important,” he told Bloomberg BNA. “We've stopped using our climate-related messages because the other ones are resonating more.”

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=108215035&vname=dennotallissues&wsn=49949500

Trump Administration Asks Court to Halt Clean Power Plan Review

By Andrew Harris and Jennifer A Dlouhy 3/30/17

President Donald Trump took yet another step toward dismantling his predecessor's climate change legacy, asking a federal appeals court halt its review of carbon-emission rules for power plants (West Virginia v. EPA, D.C. Cir., No. 15-1363, motion filed 3/28/17).

Trump, who famously called climate change a hoax in a 2012 tweet, signed an executive order March 28 that starts unraveling a raft of rules and directives to combat climate change. That's now been followed by a bid to temporarily place on hold a 26-state suit challenging the centerpiece of President Barack Obama's environmental agenda—the Clean Power Plan—so the new administration can dismantle it ahead of a ruling on its legality.

The request is the strongest sign yet that the U.S. may back away from Obama's commitment to a 197-nation climate change accord, though the White House hasn't taken that step.

Asking the court to halt its review is the easy part. The next steps could be more difficult. Since the rule was finalized, the new administration can't kill it out right and instead must go through the rule-making process again to undo it, said Villanova University law professor Todd Aagaard. The Trump administration is arguing that the court shouldn't waste resources deciding the case, when the EPA plans to revise or undo the rule anyway.

“The case is not moot simply because EPA is considering undoing the Clean Power Plan,” he said. “It won't be moot unless and until EPA actually finalizes a new rule to undo the plan.”

The Environmental Protection Agency will need about a year to administratively remove the CPP from the federal regulatory landscape, while justifying that reversal, allowing for public comment and still meeting its Clean Air Act obligations. The result will almost certainly be challenged by the same green groups and states that initially defended the rule.

“The EPA cannot simply dismantle the Clean Power Plan and leave nothing in its place,” New York Attorney General Eric Schneiderman, a Democrat, said Tuesday on behalf of 18 states that intervened in the court case in support of the rule. “This is not a situation where they can just junk the regulations.”

The Obama rule was designed to limit polluting coal-fired power plants in favor of green energy, such as wind and solar. Trump's EPA Administrator, Scott Pruitt, has asked the court, which heard arguments over the plan's merits in September, to put the case on hold while his agency and the administration review it.

“The Clean Power Plan is under close scrutiny by the EPA, and the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions,” the EPA said in its court filing late Tuesday.

The Republican Pruitt, while serving as Oklahoma attorney general, was one of the first officials who sued in October 2015 to strike down the former president's plan to reduce carbon emissions

to 32 percent below what they were in 2005. While 27 states had been part of that effort, North Carolina—whose new governor and attorney general are both Democrats—dropped out of the case.

Not Without Risk

New York, 17 other states and the District of Columbia intervened in that suit in the plan's defense.

The Pruitt-led EPA is essentially telling the court not to bother deciding the case because the plan won't go into effect. Judges don't have to agree. Schneiderman has promised to press for a ruling, a move that is not without risk for the plan's supporters.

If the Clean Power Plan is ultimately upheld by the courts, the Trump administration would have to acknowledge that it could stick with the plan but, as a matter of policy discretion, decided not to do so, Villanova's Aagaard said.

“Of course, if either the D.C. Circuit or Supreme Court were to hold that the Clean Power Plan is invalid, EPA wouldn't even have to undertake a rule-making to kill the plan -- it would already be dead,” he said.

The plan is “legally valid,” Schneiderman said, and it's “extraordinarily unusual” for one party to say it doesn't want a ruling so far along in the case.

Roiled Industry

The Obama rule roiled the energy industry when it was unveiled in 2015. The plan dictates specific carbon-cutting targets based on the amount of greenhouse gases states released while generating electricity in 2012. It followed the EPA's landmark 2009 determination that greenhouse-gas emissions endanger the public's health and welfare.

Pruitt, who has also discounted the role of carbon dioxide as the main driver for climate change, helped lead the charge for states opposing the plan in arguing that its goal to shift power generation away from coal and toward cleaner sources would force the creation of a “new energy economy.”

First to sue, though, was West Virginia Attorney General Patrick Morrisey, who hailed Trump's decision to roll back the regulations. In a phone interview, Morrisey called the plan “one of the most egregious and unlawful regulations that we've seen in many many years.”

Trump campaigned on a vow to bring back coal jobs. He told a crowd in Kentucky on March 20 that the administration will turn the EPA “from a job killer into a job creator.”

The Justice Department late March 28 also asked the D.C. Circuit to halt progress in litigation over EPA's carbon standards for new power plants, which established a requirement that any new coal-fired power plant be equipped with carbon capture technology (*North Dakota v. EPA*, D.C.

Cir., No. 15-1381, motion filed 3/28/17).

The administration's request comes about three weeks before the court is scheduled to hear oral arguments over the regulation on new power plants. The Clean Air Act required the EPA to establish standards for new power plants as a prerequisite for regulating existing plants through the Clean Power Plan.

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House Passes Bill Requiring Science in EPA Rules to Be Public

By Rachel Leven 3/30/17

A House-passed bill would require science and data used in EPA regulations or assessments to be made public.

The 228-194 vote March 29 was an unsurprising outcome, given passage of a similar bill by a 241-175 House vote last session.

Supporters of the Honest and Open New EPA Science Treatment Act of 2017 (H.R. 1430), sponsored by House Science, Space, and Technology Committee Chairman Lamar Smith (R-Texas), said it would provide transparency into science used in certain Environmental Protection Agency actions. Critics said the bill would bog down further an already slow regulatory process and block the agency from using important science in its decisions.

The bill now heads to the Senate, where new Environment and Public Works Committee Chairman John Barrasso (R-Wyo.) has indicated an openness to addressing the issue, a Barrasso spokesman said. The committee never held a hearing on last session's version of the bill, the Secret Science Reform Act of 2015 (H.R. 1030).

The measure, which would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978, is supported by groups including the American Chemistry Council, U.S. Chamber of Commerce and American Farm Bureau Federation. Opponents include the American Lung Association, Environmental Defense Action Fund and American Geophysical Union.

The House Science, Space and Technology Committee approved H.R. 1430 March 9 by a 17-12 vote along party lines. The Congressional Budget Office hasn't released a cost estimate related to the bill.

Bloomberg

<https://www.bloomberg.com/politics/articles/2017-03-29/volkswagen-says-it-has-epa-approval-to-sell-repaired-diesels>

Volkswagen Says It Has EPA Approval to Sell Repaired Diesels

By Ryan Beene 3/30/17 3:30 AM

Volkswagen AG will soon do what's been impossible since its emissions crisis began: sell diesel-powered cars in the U.S.

The company received approval from the Environmental Protection Agency for its dealers to sell 2015 model year diesels after updating the vehicles' emissions software, VW Group of America spokeswoman Jeannine Ginivan said.

The software update is part of a required emissions repair approved by the EPA and California Air Resources Board. The repair will also include changes to diesel engine hardware, but dealers do not have to wait until the repair parts become available early next year, Ginivan said.

"We are still finalizing the details of this program and will provide more information on its implementation at the appropriate time," Ginivan said in a statement.

Volkswagen admitted 18 months ago to rigging nearly 500,000 diesel cars to pass U.S. emissions tests. The Wolfsburg, Germany based company froze sales of new and certified used diesels in the U.S. while it worked with regulators on an approved fix. The company has put aside \$24 billion (22.6 billion euros) to cover costs and fines related to the scandal.

The shares were little changed at 136.50 euros at 9:19 a.m. in Frankfurt trading, bringing the decline since the scandal broke in September 2015 to about 16 percent.

Significant Milestone

Reviving diesel sales marks a significant milestone in VW's efforts to recover from the scandal and rebuild its relationship with environmental regulators. It also returns a key product to dealer showrooms that attracted a cult-like customer base and accounted for about 20 percent of the VW brand's pre-scandal sales.

Yet it's a mostly symbolic step. The sales approval only applies to about 67,000 diesels from the 2015 model, about 12,000 of which are currently in dealer inventory, Ginivan said.

An EPA spokeswoman didn't immediately return messages seeking comment.

Volkswagen has also said no new diesel models will be offered in the U.S. at least through model year 2018. The company is moving aggressively toward electric vehicles, signaling a diminishing role for diesel engines in the company's portfolio, especially in the U.S.

The program will also eventually include used 2015 diesels the company has repurchased from owners through the 2016 settlement with U.S. regulators and owners, Ginivan said. Some customers have elected to keep their cars and receive restitution and an emissions repair under the terms of its \$10 billion buyback.

While diesel engines are more fuel efficient than their gasoline counterparts and are found in about half of new passenger cars sold in Europe in part due to tax breaks, they never fully caught on in the U.S., accounting for less than three percent of deliveries.

E&E News

<http://www.eenews.net/climatewire/2017/03/30/stories/1060052328>

On balance, the world wants Trump to stay

By Jean Chemnick 3/30/17

The world is prepared to put up with quite a lot to keep the United States in the Paris climate deal.

If White House officials who want the United States to remain part of the 2015 agreement prevail in what appears to be an ongoing tug of war within the administration, the trade-off is likely to be weaker emissions commitments and no new climate aid for the remainder of President Trump's term. Even then, the administration could make new demands in forthcoming negotiations that could complicate the delicate deal among nearly 200 nations.

Still, most climate diplomats and environmentalist observers say they would rather deal with a Trump team than lose the United States altogether.

"I don't think it would be seen as an advantage to have the United States out, if for no other reason than that countries will be very hopeful that this is a time-limited bump in the road," said former State Department Special Envoy for Climate Change Todd Stern. "And it is a lot more useful to have the U.S. still in the regime, so that when things eventually turn around in Washington, then the U.S. is there, rather than you've got to go through the whole aggravation of them not being there."

Trump this week essentially hollowed out the U.S. Paris pledge when he signed an executive order rolling back Obama-era greenhouse gas regulations that formed the basis of America's international commitments. A new target, or "nationally determined contribution" (NDC), to Paris would likely accompany any decision to stay in the deal, and analysts believe it will be an emissions range consistent with a business-as-usual scenario.

The next weeks are expected to settle whether Trump will stay or go. But a State Department team will attend the next midyear climate talks in Bonn, Germany, a first foray that might shed some light on whether the new administration would assume a role of benign neglect or of outright obstruction if it stays. Even if Trump does move to withdraw soon, the process will take four years, during which time his team could still attend talks and play an active, if diminished, role in setting the rules of the road.

Battle lines within and around the administration are not clearly drawn. Over the weekend, U.S. EPA Administrator Scott Pruitt dismissed Paris as a "bad deal" in an interview on ABC's "This Week," while EPA transition team leader Myron Ebell attacked Secretary of State Rex Tillerson as a "swamp creature" in remarks at a Washington conference for saying during his Senate confirmation process back in January that the United States should maintain a "seat at the table" on Paris.

It's unclear what role, if any, Tillerson is playing in this decision, which will ultimately be made by Trump himself, either with the usual input from advisers or without it. But Trump's daughter Ivanka Trump and son-in-law Jared Kushner were instrumental in slashing language from yesterday's executive order rolling back domestic climate regulations that would have set the wheels in motion for a withdrawal from Paris. And several members of Trump's National Security Council argue for remaining in the deal for pragmatic reasons. Senior adviser Steve Bannon does not.

Still, Stern said he assumes that if the United States remains in the deal, it will not try to ruin it from within.

"I don't think that they're going to diabolically say, 'Let's stay in so we can throw bombs,'" he said.

"A seat at the table doesn't generally mean a seat at the table with a grenade in your hand," Stern added. Still, he acknowledged, if the new negotiating team were extraordinarily unconstructive, that might prompt some partners to wish it had just made an exit.

Should the U.S. help write the rulebook?

But a future administration might find it complicated to re-enter Paris, while an exit from the underlying U.N. Framework Convention on Climate Change (UNFCCC) would likely mean the United States would have to stay out of the deal for good. It would be very difficult for a future administration to wrangle 60 Senate votes in the future to rejoin the treaty.

And a regime without the United States is likely to be less effective in the long run.

"I can't envision a world in which it would be better for the U.S. to pull out in terms of keeping the agreement together or keeping others on board," said Kate Larsen, climate director of the Rhodium Group and a former State Department negotiator during both the George W. Bush and Obama administrations.

"If the U.S. were to pull out, you would have to believe that at some point, later in the future, when a more sympathetic president is in place, that we'd be able to either rejoin the agreement or negotiate a whole new one," she added.

Paris was the culmination of more than two decades of negotiations that eventually included 196 parties, and that included many setbacks and false starts along the way that threatened to capsize the process.

The United States was frequently a pariah in the process, but usually for arguing, across Democratic and Republican administrations alike, for provisions on transparency, common

responsibility across developed and developing countries, and the avoidance of binding language that would require Senate approval for the United States to join.

If the United States were to suddenly withdraw from the process, Larsen said, "the voices for including elements that are problematic for the U.S. get stronger and ultimately win out."

If the United States is not active over the coming two years as the Paris rulebook is being negotiated and written, the next administration could return to a process that has become difficult to join.

Stern noted that the Paris accord made substantial new progress in breaking down past barriers between what the process demanded of developed and developing participants and on transparency — gains he said the United States should continue to guard in the implementation phase.

World waits, strategizes

Climate diplomats and negotiators approached for this story were generally reticent to speak on the record about the future of U.S. participation in Paris. Some worried about being seen to weigh in on domestic U.S. politics, while others feared weighting the scales toward a U.S. exit.

Officials from Europe and elsewhere say they're still assessing who their counterparts are within the Trump White House and State Department.

"It's not under discussion with key climate diplomats," said Christoph Bals of Germanwatch. "They have lots of problems at the moment to find a person in the U.S. government who has a mandate to negotiate this with them. And they are absolutely frustrated in our chancellery that they don't know who the right person [is] to negotiate those kinds of things."

Maros Sefcovic, vice president for the compact's Energy Union, did meet with White House officials earlier in the month, and German Foreign Minister Sigmar Gabriel met with Tillerson and Vice President Mike Pence in February to discuss the agenda his country has set for its presidency of the Group of 20 nations this year, which includes climate change.

German Chancellor Angela Merkel is said to have a personal stake in a strong climate outcome for the G-20, but has so far avoided putting Trump on the spot. She raised climate change during a closed-door lunch with the president during her visit to Washington earlier this month, but did not make a public statement about it. And the Germans watched as Treasury Secretary Steven Mnuchin stripped long-established language from this year's financial ministers' communiqué for the G-20 that called for the removal of trade barriers, while he banded together with Saudi Arabia's minister to cancel all reference to climate finance. Greens hope climate aid will reappear at the leader-level summit in July, together with a reaffirmation of the Paris deal, but Maeve McLynn of CAN Europe said Mnuchin's heavy-handedness did not bode well for how the United States might perform in upcoming climate talks.

"This is what I'm kind of fearing, that the U.S. will come in and not be willing to compromise on certain things," she said. Both the G-20 and the climate talks operate on consensus, and the United States plays an outsized role.

McLynn said that Europeans are dealing with the uncertainty in Washington by engaging more

deeply with other countries. The 28-nation bloc could announce new bilateral efforts with China, Latin America and other nations at summits later this year, and is weighing whether to increase its commitment to climate finance in response to a retreating United States. Outreach to Canada and Mexico is also part of the strategy.

"The message we're getting is, 'Let's not focus too much on Trump and the Trump administration, but then let's start building and strengthening the alliances with the countries around the U.S.,'" said McLynn.

Foreign officials are not offering direct criticism so far of Trump's domestic climate moves, though they seem to be holding fire until the Paris announcement is out.

Jake Schmidt, international climate change director for the Natural Resources Defense Council, said Europe, small island states and other members of the so-called high ambition coalition would be unlikely to accept a weaker NDC without comment.

"Pretending like there's no blowback to changing how you act on climate change is a bit delusional," he said, predicting that a change in Paris commitment would spark a diplomatic pushback.

Dennis Clare, who has negotiated on behalf of small island states within the UNFCCC process, said a major emitter like the United States would set a dangerous precedent if it were to pare back its already-insufficient NDC, though an exit from the deal would "go one step further."

"Most countries would surely lament any diminishment of the collective global response to climate change and the increased human suffering that would cause," he said.

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052317>

Democrats press Pruitt to address conflict of interest

By Ariel Wittenberg 3/20/17

U.S. EPA Administrator Scott Pruitt hasn't responded to requests from Senate Democrats that he address an apparent conflict of interest caused by President Trump's executive order that directs the agency to review and possibly rescind the Clean Water Rule.

Environmental and Public Works Committee Democrats asked him last week to confirm that he has either recused himself from actions related to the regulation or received permission from ethics officials to remain involved in the rule review (*Greenwire*, March 21).

The letter requested a response "by no later than March 29." A Democratic aide said neither Pruitt nor EPA has responded.

EPA didn't respond to repeated requests for comment for this story.

At issue is a lawsuit Pruitt filed as Oklahoma attorney general against the Obama administration's Clean Water Rule.

The regulation, also known as the Waters of the U.S. rule, or WOTUS, aims to clarify the reach of federal regulations over wetlands and waterways under the Clean Water Act. It was strongly opposed by farmers, land developers and energy companies that said it amounted to federal overreach.

Trump's executive order directs EPA to rescind the regulation and to "promptly notify the Attorney General of the pending review" so that the Department of Justice can decide how to proceed on lawsuits filed against the litigation.

Two days after that order was signed, Pruitt himself signed a notice indicating EPA had begun its review of the regulation.

But Senate Democrats say the executive order creates a conflict of interest for Pruitt because it includes "explicit direction" regarding the lawsuit he filed as Oklahoma attorney general.

Pruitt has signed an ethics agreement stating he would seek authorization from EPA's designated ethics official to "personally and substantially" participate in "particular matters involving the specific parties in which I know the State of Oklahoma is a party or represents a party."

Pruitt also told the committee during his confirmation hearing he would recuse himself from matters related to litigation he filed as attorney general unless he had permission from ethics officials.

Senate Democrats are asking for proof Pruitt has done that.

"Although we all continue to believe," they wrote, "that you should have made more extensive recusals than the ones you committed to, the specific language in section 2(c) of the Order should have triggered even the more limited recusal policy to which you have already and repeatedly agreed."

E&E News

<http://www.eenews.net/eedaily/2017/03/30/stories/1060052312>

House OKs 'secret science' bill; advisory board bill up today

By Sean Reilly 3/30/17

The House has again passed legislation that would bar U.S. EPA from pursuing new regulations based on science that is not "transparent or reproducible," brushing aside critics' warnings that it would hamstring the agency's ability to protect public health and the environment.

The bill, H.R. 1430, won approval late yesterday by a 228-194 margin after a perfunctory one-

hour debate under a closed rule that barred amendments. Three Democrats voted yes; seven Republicans were opposed.

The House approved similar measures titled the "Secret Science Reform Act" in 2014 and 2015. Both then died in the Senate following Obama administration veto threats. Although the latest version, dubbed the "Honest and Open New EPA Science Treatment Act," is certain to play better with President Trump, it still faces uneven odds in the Senate, where 60 votes are needed to move legislation of any significance.

Potentially raising the bar further is a Congressional Budget Office forecast released after yesterday's vote that estimated that annual implementation costs over the next few years could range from a few million dollars to around \$100 million.

The bill, sponsored by House Science, Space and Technology Chairman Lamar Smith (R-Texas), would require online availability of the research data used in studies undergirding new regulations as a means of allowing independent analysis. "Our goal is to help advance not just any science, but the best science," Smith said during yesterday's floor debate.

As they have in the past, Smith and other Republicans portrayed the bill as an open-government measure intended to shed light on the research behind EPA rules that can sometimes carry a considerable economic wallop.

"It's like they have a little black box over there; they don't ever let anyone else look into it," said Rep. Brian Babin (R-Texas). "Show us your data."

Critics, however, see the legislation's purported purpose as anything but honest. Instead, they have argued, it would make it easier for industry to bring lawsuits against new rules, while making it harder for EPA to tap important research because the results of studies based on large data sets aren't easily reproducible.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee's ranking member, described the bill as even worse than its two predecessors and said it would stifle EPA's ability to protect public health. "Unfortunately in this case," Johnson said, "the third time is not the charm."

Democrats also questioned the value of a newly added exemption for personally identifiable and sensitive business information from the internet posting requirements, given that the data could still be obtained through a confidentiality agreement with the EPA administrator.

An even bigger question mark hovers over the bill's potential cost.

A 2015 Congressional Budget Office analysis of a similar measure pegged the annual price tag for the first couple of years at \$250 million. During yesterday's debate, Smith said that reading was a misinterpretation of the implementation requirements.

But the CBO score for H.R. 1430, released after yesterday's vote, signaled that the expense for EPA could still be substantial, even as the agency faces a 31 percent cut under Trump's proposed budget for next year.

Although the final tab would hinge in part on how much money EPA chooses to invest in "infrastructure" to make researchers' data more widely available, the overall amount could range

from several million dollars per year to more than \$100 million per year "to ensure that data and other information underlying studies are publicly available in a format sufficient to allow others to substantially reproduce the results," the CBO analysis said. Based on the "minimal" approach that EPA officials say they plan to take, however, the budget office pegged total spending from 2018 through 2022 at \$5 million.

Earlier this week, Smith had predicted the implementation cost would be "minuscule" (E&E Daily, March 28). His legislation would cap EPA's annual spending at \$1 million, or roughly in line with what agency officials told CBO they would use.

Smith's bill is traveling in tandem with H.R. 1431, a separate measure by Rep. Frank Lucas (R-Okla.) to revamp membership requirements for EPA's Science Advisory Board. Earlier in the day, the House cleared the latter bill on a 232-188 vote for debate this morning. It will probably pass by lunchtime.

Washington Post

https://www.washingtonpost.com/news/morning-mix/wp/2017/03/30/new-trailer-for-al-gores-inconvenient-truth-shows-president-trump-as-climate-change-villain/?utm_term=.775755b36688

New trailer for Al Gore's 'Inconvenient Truth' sequel shows President Trump as climate change villain

By Ben Guarino 3/30/17, 3:01AM

The trailer for "An Inconvenient Sequel: Truth to Power," the second film in Al Gore's franchise of climate change documentaries, depicts President Trump as an antagonist. The clip that Gore shared via Twitter on Wednesday shows the president at an airport rally held last April in Rochester, N.Y., where then-candidate Trump mocks the climate science consensus.

"It's supposed to be 70 degrees today," Trump says. "It's freezing here! Speaking of global warming, where is — we need some global warming!"

As for Gore, the trailer vindicates the former vice president's climate change predictions. Gore says that the most criticized part of 2006's "Inconvenient Truth," which won a documentary feature Oscar in 2007, was the notion that the World Trade Center Memorial could flood from rising sea levels and stronger storm surges. Smash cut to 2012 — "Hurricane Sandy slammed into New York City last night, flooding the World Trade Center site," a newscaster says in the trailer.

The trailer jumps from the devastation wreaked by extreme weather events to shots of green energy infrastructure and Gore pumping the hand of Canadian Prime Minister Justin Trudeau.

And then, halfway through, the screen goes to black. Enter Trump.

The trailer showcases another Trump campaign rally speech. "It's time to put America first," he says. "That includes the promise to cancel billions in climate change spending."

Trump's statements have frequently missed the mark on climate change. In a December interview with Fox News, Trump said he was "open-minded" on the subject. But his other

stances have veered from conspiracy — Trump infamously called global warming a Chinese hoax, in a Twitter post that he later shrugged off as a joke — to skepticism. He told The Washington Post editorial board in March 2016 that he was “not a great believer in man-made climate change.”

At least one of his businesses, however, acknowledges the threat posed by rising oceans; the Trump International Golf Links Ireland cited global warming in its 2016 application seeking a permit for a protective sea wall.

Gore has frequently demurred from attacking Trump’s climate change views. In fact, he characterized a December meeting with Trump at Trump Tower in Manhattan as constructive. “I had a lengthy and very productive session with the president-elect. It was a sincere search for areas of common ground,” Gore said of his 90-minute lunch meeting, as The Washington Post reported at the time. “I had a meeting beforehand with Ivanka Trump. The bulk of the time was with the president-elect, Donald Trump. I found it an extremely interesting conversation, and to be continued, and I’m just going to leave it at that.”

When “An Inconvenient Sequel: Truth to Power” debuted at the 2017 Sundance Film Festival in January, Variety commented on the fact that Gore did not mention Trump by name. Gore told the Sundance crowd only that, in the realm of climate change setbacks, “now we have another,” as Variety reported. Gore also opposed Trump’s decision to appoint Scott Pruitt, a critic of climate change science, to head the Environmental Protection Agency.

Al Gore meets with Donald Trump

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation “extremely interesting.” (The Washington Post)

Former vice president Al Gore spoke to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York, calling their conversation “extremely interesting.”
Former vice president Al Gore speaks to reporters Dec. 5 about his meeting with President-elect Donald Trump at Trump Tower in New York. (Photo: AP/The Washington Post)

In mid-March, Gore expressed optimism that Trump would not withdraw the U.S. from the 2015 Paris climate accord, an agreement in which the country would curb greenhouse gas emissions. Trump has wavered between a public declaration to “cancel” the agreement and saying he had an “open mind” on pulling out.

On the same day that Gore tweeted the new trailer, the House Science Committee held a climate change panel thick with political theater, as The Post reported, but scant by way of practical solutions. The day prior, Trump signed an executive order to boost the coal industry that also allows federal officials to disregard a previous requirement to consider climate change during decision-making processes.

Washington Post

https://www.washingtonpost.com/news/fact-checker/wp/2017/03/30/the-white-houses-claim-that-the-carbon-emissions-rule-could-cost-up-to-39-billion-a-year/?utm_term=.947656cfb127

The White House's claim that the carbon emissions rule 'could cost up to \$39 billion a year'

By Michelle Ye Hee Lee 3/30/17, 3:00AM

"The previous administration's Clean Power Plan could cost up to \$39 billion a year ... according to NERA Economic Consulting."

–White House fact sheet, March 28, 2017

President Trump has started rolling back Obama-era environmental protections, including directing federal regulators to rewrite federal rules to reduce carbon emissions.

The Clean Power Plan, a flagship environmental regulatory rule of the Obama administration, proposes to cut carbon emissions from existing power plants 30 percent below 2005 levels by 2030. It has been placed on hold while under litigation.

Proponents of the rule say it will improve public health and the United States would set an example for other countries to curb carbon emissions. Opponents say the plan will have minimal impact on the environment while driving up costs for consumers. The Fact Checker obviously takes no position on the rule.

A fact sheet about the March 28 executive order on Obama-era climate protections estimated the cost of the Clean Power Plan at up to \$39 billion. How accurate is this estimate? Who exactly is NERA Economic Consulting? And why isn't the White House using estimates by the Energy Information Administration (EIA) or the Environmental Protection Agency?

The Facts

Studies on the cost impact of the rule are built on different sets of assumptions, making it hard to make apples-to-apples comparisons. These studies compare how the energy industry and consumers would be affected in the absence of the new carbon emissions rule.

States have wide latitude in complying with the federal rule. Costs can vary depending on state, regional or local policymakers' decisions. Emissions and power plants can cross state boundaries, so states can coordinate with each other to lower costs.

There are assumptions made about the types of actions states will take after the rule takes effect, and what role renewables and natural gas energy will play. That means there are a lot of unknowns in cost estimates. That's an important caveat.

The NERA Economic Consulting's November 2015 study that the White House cites is commissioned by the American Coalition for Clean Coal Electricity, which opposes the Clean Power Plan. The Fact Checker always warns readers to be skeptical of industry-funded research. The \$39 billion is the high end of the \$29 billion-to-\$39 billion range of potential costs on the U.S. fossil-energy sector, under one method of compliance in the emissions rule.

Critics of the study say there are key assumptions that inflate costs.

It makes conservative baseline calculations about the impact of renewable energy policies, said David G. Victor, director of the Laboratory on International Law and Regulation at University of

California-San Diego. Those policies would reduce the amount of emissions even before any costs of the Clean Power Plan are incurred. NERA Economic Consulting said that the cost of renewables do not actually have a major effect on its estimates of the rule's costs.

The study relies on outdated cost figures for renewable energy and energy efficiency, according to the National Resources Defense Council, which is critical of this study. Its modeling is based on figures published by the EIA in its 2015 report, which "severely underestimates renewable growth and overestimates costs of new renewable generation," according to the environmental group, which supports the Clean Power Plan.

The study also makes different assumptions about allocations of allowance costs for the electricity companies. This may have led to higher electricity price increases compared to the assumptions in other studies, including one by the EIA. However, EIA's study is not an apples-to-apples comparison to the one by NERA Economic Consulting.

Clean energy advocates say the study ignores long-term benefits of energy efficiency programs, and that the rule could even lead to people saving money. The EPA and EIA fall somewhere in between those advocates and the study by NERA Economic Consulting; those agencies estimate that electricity prices would rise slightly at first but fall later, according to E&E News.

The EPA estimates that by 2030, the benefits of the rule (\$34 billion to \$54 billion) will outweigh the costs of complying with new regulations (\$8 billion).

The White House did not respond to our request for comment.

The Pinocchio Test

The White House used a statistic by an industry-backed study to claim that the Clean Power Plan could cost "up to \$39 billion a year." While this wording indicates that it's the highest end of the spectrum of costs, it creates a misleading impression that this is a definitive cost.

In reality, there are too many unknowns to cite a statistic like this with no context. The study the White House cites is based on a series of assumptions that are not comparable to ones made by the EIA, a credible government agency of career statisticians and researchers crunching data. We know the new White House isn't a fan of government statistics produced under the previous administration, but eventually, the administration won't be able to just rely on industry estimates and claims.

Huffington Post

http://www.huffingtonpost.com/entry/heartland-institute-climate-pack_us_58db4c63e4b05463706323d4

Climate Change-Deniers 'Spam' Thousands Of Teachers With Anti Global Warming Packages

By Nick Visser 3/30/17, 7:15AM

One of America's most prominent climate-denying groups, galvanized by the Trump administration listening to their claims, has set its sights on a new target: teachers.

The Heartland Institute, a conservative think tank that's become one of the loudest voices when it comes to climate denial, has sent more than 25,000 science teachers across the country a package of material it hopes they'll use in the classroom, according to a report from PBS Frontline.

Alongside a note from Lennie Jarratt, the group's project manager for transforming education, the package contains a book called *Why Scientists Disagree About Global Warming* and a 10-minute video about using their guidance.

"I'm writing to ask you to consider the possibility that the science in fact is not 'settled,'" Jarratt says in the memo. "If that's the case, then students would be better served by letting them know a vibrant debate is taking place among scientists on how big the human impact on climate is, and whether or not we should be worried about it."

However, there's near universal consensus among climate researchers that the planet is warming — rapidly — and human-induced greenhouse gas emissions are the primary cause. Earth experienced its hottest year on record in 2016, and officials have warned we're running out of time to address the threat of climate change.

Jim Lakely, the Heartland Institute's director of communications, confirmed thousands of copies of the group's book have been sent out, and more are yet to come.

"The number put out by PBS Frontline might be low before it's all done. We'll see," he said in an email. "We're mailing out the material because the science is not 'settled' when it comes to what are the causes and consequences of climate change."

The packages have already drawn swift rebuke.

"It's not science, but it's dressed up to look like science," Ann Reid, the executive director of the National Center for Science Education told Frontline. "It's clearly intended to confuse teachers."

The National Council for Special Education published survey findings this month that 75 percent of public science educators devote time to teaching about climate change. But around 30 percent of the 1,500 teachers surveyed cast doubt on the cause, disputing scientific consensus about the phenomenon.

Some teachers expressed their dismay on Twitter at receiving the Heartland Institute packages:

@Matthewrcover: Received this junk in my university mailbox today. Thanks but no thanks #HeartlandInstitute

@sustainteach: After teaching about #climatechange all day, it was kind that the Heartland Institute, an organization funded by petroleum, sent me this.

@SanRaider25: Oh look, the Heartland Institute sent me a care package. And they want my feedback. #science #ActOnClimate

@CityLightsUF: The Heartland Institute is spamming my workplace with b*****t.

Heartland has been riding high since the election of President Donald Trump, a who's called climate change a hoax invented by the Chinese. The group hosted its 12th annual conference on climate denial this month. The event drew pro-Trump billionaire Robert Mercer and his daughter Rebekah Mercer, along with Myron Ebell, the man in charge of the Trump campaign's transition at the Environmental Protection Agency.

Lakely said the group has been "meeting a demand" with the packages and that it's been "contacted by many teachers who've asked us for science-based materials that will help them tell their students the truth."

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The Daily Caller

<http://dailycaller.com/2017/03/30/trumps-epa-wont-ban-a-pesticide-obama-really-wanted-banished/>

Trump's EPA Won't Ban A Pesticide Obama Really Wanted Banished

By Andrew Follett 3/30/17 8:33 AM

President Donald Trump's Environmental Protection Agency (EPA) rejected environmentalists' demands to ban a pesticide crucial to U.S. agriculture.

EPA administrator Scott Pruitt formally rejected a petition to ban the pesticide chlorpyrifos Wednesday evening.

During the Obama administration, heavy environmentalist pressure caused the EPA to consider banning chlorpyrifos over concerns that it contaminates drinking water and food. However, the EPA's own analysis found that "there do not appear to be risks from exposure to chlorpyrifos in food." The agency's own website says chlorpyrifos is safe for humans in "standard" amounts.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a press statement. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

Chlorpyrifos has been used on citrus fruits, apples, broccoli and various other crops since 1965. U.S. farms use about 6 million pounds of chlorpyrifos each year. If nothing had changed legally, the EPA would no longer have allowed incredibly small trace amounts of chlorpyrifos in food, effectively banning the pesticide in the U.S.

Industry groups strongly opposed the EPA's attempts to ban the pesticide.

"Dow AgroSciences supports U.S. Environmental Protection Agency's (EPA) decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in a statement. "Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops."

Environmentalists pushed heavily for a ban, as did major media outlets — The New York Times, for example, ran an ominous opinion piece titled "Protect Our Children's Brains."

The Natural Resources Defense Council and Pesticide Action Network North America, filed a federal lawsuit seeking a national ban on chlorpyrifos over theoretical risks of drinking water contamination and alleged contamination of food by the pesticide. But, the EPA admits that it hasn't completed its assessment of the pesticide's effects on drinking water and that "certain

science issues” regarding chlorpyrifos are “unresolved.”

The environmental groups also claim that the pesticide interferes with the brain development of fetuses, infants and children. This claim goes against the American Academy of Pediatrics, which states, “the risks of pesticides in the diet are remote, long-term, and theoretical, and there is no cause for immediate concern by parents.” Green objections are largely based on a Columbia study that a toxicologist at Harvard University previously told the The Daily Caller News Foundation was “not even accurate.”

“This is a welcome decision grounded in evidence and science,” Sheryl Kunickis, pesticides director at the U.S. Department of Agriculture (USDA), said in a press statement. “It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world. This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

It is one of the first time environmental groups were unable to convince the EPA to ban a substance through a process of “legal collusion” called “sue and settle.” The EPA has frequently been sued by environmental groups for failing to meet regulatory deadlines, then the agency agreed to settle the dispute with these groups out of court. Settlements are written behind closed doors with no input from affected parties, but still having the full force of law. This effectively allowing the EPA to write its own rules with only environmental groups having input.

Between 2009 and 2012, the EPA chose not to defend itself in over 60 lawsuits from special interest groups, resulting in settlement agreements and more than 100 new EPA regulations.

New York Times

<https://www.nytimes.com/2017/03/29/us/politics/epa-insecticide-chlorpyrifos.html>

E.P.A. Chief, Rejecting Agency’s Science, Chooses Not to Ban Insecticide

By Eric Lipton 3/29/17

WASHINGTON — Scott Pruitt, the head of the Environmental Protection Agency, moved late on Wednesday to reject the scientific conclusion of the agency’s own chemical safety experts who under the Obama administration recommended that one of the nation’s most widely used insecticides be permanently banned at farms nationwide because of the harm it potentially causes children and farm workers.

The ruling by Mr. Pruitt, in one of his first formal actions as the nation’s top environmental official, rejected a petition filed a decade ago by two environmental groups that had asked that the agency ban all uses of chlorpyrifos. The chemical was banned in 2000 for use in most household settings, but still today is used at about 40,000 farms on about 50 different types of crops, ranging from almonds to apples.

Late last year, and based in part on research conducted at Columbia University, E.P.A.

scientists concluded that exposure to the chemical that has been in use since 1965 was potentially causing significant health consequences. They included learning and memory declines, particularly among farm workers and young children who may be exposed through drinking water and other sources.

But Dow Chemical, which makes the product, along with farm groups that use it, had argued that the science demonstrating that chlorpyrifos caused such harm is inconclusive — especially when properly used to kill crop-spoiling insects.

An E.P.A. scientific review panel made up of academic experts last July also had raised questions about some of the conclusions the chemical safety staff had reached. That led the staff to revise the way it had justified its findings of harm, although the agency employees as of late last year still concluded that the chemical should be banned.

Mr. Pruitt, in an announcement issued Wednesday night, said the agency needed to study the science more.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Mr. Pruitt said in his statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

The United States Department of Agriculture, which works close with the nation’s farmers, supported Mr. Pruitt’s action.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation,” Sheryl Kunickis, director of the U.S.D.A. Office of Pest Management Policy, said in a statement Wednesday.

Dow Agrosciences, the division that sells the product, also praised the ruling, calling it in a statement “the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops.”

But Jim Jones, who ran the chemical safety unit at the E.P.A. for five years, and spent more than 20 years working there until he left the agency in January when President Trump took office, said he was disappointed by Mr. Pruitt’s action.

“They are ignoring the science that is pretty solid,” Mr. Jones said, adding that he believed the ruling would put farm workers and exposed children at unnecessary risk.

The ruling is, in some ways, more consequential than the higher profile move by Mr. Trump on Tuesday to order the start of rolling back Obama administration rules related to coal-burning power plants and climate change.

In rejecting the pesticide ban, Mr. Pruitt took what is known as a “final agency action” on the question of the safety and use of chlorpyrifos, suggesting that the matter would not likely be revisited until 2022, the next time the E.P.A. is formally required to re-evaluate the safety of the pesticide.

Mr. Pruitt's move was immediately condemned by environmental groups, which said it showed that the Trump administration cared more about catering to the demands of major corporate players, like Dow Chemical, than the health and safety of families nationwide.

"We have a law that requires the E.P.A. to ban pesticides that it cannot determine are safe, and the E.P.A. has repeatedly said this pesticide is not safe," said Patti Goldman, managing attorney at Earthjustice, a San Francisco-based environmental group that serves as the legal team for the Natural Resources Defense Council and the Pesticide Action Network of North America, which filed the petition in 2007 to ban the product.

The agency had been under court order to issue a ruling on the petition by Friday. The environmental groups intend to return to the Ninth Circuit Court of Appeals in San Francisco to ask judges to order the agency to "take action to protect children from this pesticide" Ms. Goldman said on Wednesday.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/29/trump-epa-declines-to-ban-pesticide-that-obama-had-proposed-outlawing/?utm_term=.f43b3a7e2977

Trump EPA declines to ban pesticide that Obama had proposed outlawing

By Brady Dennis 3/29/17, 5:20PM

The new head of the Environmental Protection Agency refused Wednesday to ban a commonly used pesticide that the Obama administration had sought to outlaw based on mounting concerns about its risks to human health.

The chemical compound chlorpyrifos, also known as Lorsban, has been used by farmers for more than a half-century to kill pests on crops including broccoli, strawberries and citrus. The EPA banned its spraying indoors to combat household bugs more than a decade ago. But only in recent years did the agency seek to ban its use in agriculture, after mounting scientific evidence that prenatal exposure can pose risks to fetal brain and nervous system development.

Under President Barack Obama, the EPA proposed in 2015 to revoke all uses of chlorpyrifos on food — a move taken in response to a petition filed by the Natural Resources Defense Council and Pesticide Action Network North America. A federal judge had given the EPA until Friday to decide whether to finalize its ban of the pesticide.

On Wednesday, EPA Administrator Scott Pruitt decided the answer would be no.

“We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment,” Pruitt said in a statement. “By reversing the previous administration’s steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making — rather than predetermined results.”

His statement argued that the “public record lays out serious scientific concerns and substantive process gaps in the proposal.”

Sheryl Kunickis, director of the Office of Pest Management Policy at the Department of Agriculture, agreed with the decision.

“It means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world,” she said in a statement. “This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States.”

The chemical industry also pushed hard against a chlorpyrifos ban. Dow AgroSciences, which manufactures the pesticide, said late last year that the Obama administration’s assessment of its safety “lacks scientific rigor.” The company said it “remains confident that authorized uses of chlorpyrifos products, as directed, offer wide margins of protection for human health and safety.”

But dozens of scientific researchers, doctors and public health professionals had joined the environmental groups in urging the EPA to prohibit all use of chlorpyrifos.

“With each year of delay in canceling food tolerances and agricultural and other uses of chlorpyrifos, more children are unnecessarily at elevated risk for problems in learning, social skills, motor function, and other developmental domains,” a group of supporters wrote in a letter to the agency early this year. “We strongly urge EPA to finalize its assessment and cancel all remaining uses of chlorpyrifos as expeditiously as possible.”

Environmental activists were incensed Wednesday, saying that Pruitt had ignored substantial evidence of potential harms.

“The chance to prevent brain damage in children was a low bar for most of Scott Pruitt’s predecessors, but it apparently just wasn’t persuasive enough for an administrator who isn’t sure if banning lead from gasoline was a good idea,” Environmental Working Group president Ken Cook said in a statement. “Instead, in one of his first major decisions as head of the EPA, like a toddler running toward his parents, Pruitt leaped into the warm and waiting arms of the pesticide industry.”

InsideEPA

<https://insideepa.com/daily-news/pruitt-woos-conservatives-ghg-risk-finding-offers-no-firm-promise>

Pruitt Woos Conservatives On GHG Risk Finding But Offers No Firm Promise

By Doug Obey 3/29/17

EPA Administrator Scott Pruitt is offering assurances to his most conservative critics that he is committed to scuttling numerous Obama-era climate policies -- while leaving the door open to efforts to repeal the agency's landmark greenhouse gas endangerment finding -- after a conservative columnist called for his resignation because of a lack of action so far on the finding.

In a March 28 interview with *Breitbart* -- the hard-line conservative news outlet formerly run by White House chief strategist Steve Bannon -- Pruitt said he will eventually respond to petitions that have been filed seeking to roll back the GHG endangerment finding, the legal basis for EPA's climate rules and an effective requirement of the Supreme Court's ruling in *Massachusetts v. EPA*.

“I think that if there are petitions for reconsideration for the [endangerment finding], we’ll have to address those at some point,” Pruitt said in the interview. “Our objective, and our role, is to do what the law requires.”

He does not mention that there are currently as many as three petitions pending at the agency to reconsider the landmark risk finding.

Pruitt's comments underscore the political and legal awkwardness of President Donald Trump's executive order to review or scrap numerous climate policies, such as EPA's Clean Power Plan, but not the endangerment finding.

Many of the administration's most conservative supporters are concerned that the order does not go far enough in calling for officials to reconsider the endangerment finding, fearing it will undercut administration efforts to rescind climate rules.

Many observers have long asserted that the Clean Air Act still obligates the agency to act on GHGs even in the absence of the regulations Trump is seeking to roll back, meaning that the conservatives' hope of scrapping the GHG risk finding might be legally infeasible.

One of those critics, *Breitbart* columnist James Delingpole in a March 27 column argued that Pruitt should resign if he cannot follow through with efforts to scrap the finding.

He cited reports that Pruitt resisted including a reference to the endangerment finding in the executive order and suggested that he may have done so because he wants to appear more moderate as he is interested in running for the Senate seat expected to be vacated by Sen. James Inhofe (R-OK).

Awkward Line

Pruitt in the interview with *Breitbart* emphasizes themes likely to appeal to a conservative audience amid an ongoing Senate confirmation battle over Trump's Supreme Court pick, defending “EPA originalism,” defined as adhering to Congress' original authorities.

Pruitt also touts plans to rein in alleged agency overreach. “We’re going to roll it back, those things that were unlawful, we’re going to roll back those things that were an overreach, we’re going to roll back the steps taken by the previous administration.”

Pruitt has walked an awkward public line on the GHG finding even while repeatedly criticizing specific Obama climate change programs, suggesting during his Senate confirmation process that getting rid of the finding is not a priority.

At the time, Pruitt did not rule out any EPA action on the issue but called the finding the “law of the land,” appearing to offer a political shield to lawmakers that they would not be branded climate skeptics simply for voting for him.

But since his confirmation, Pruitt declared in a *CNBC* interview that carbon dioxide is not a “primary contributor” to global warming, sparking widespread blowback from scientists and others and appearing to refute the EPA finding.

His *Breitbart* interview also wades into non-climate topics, including a stated goal of refocusing the agency away from climate change and on to 1,300 Superfund sites that have lingered on the agency's National Priorities List.

That goal, however, appears to clash with preliminary Trump administration budget requests that would impose a massive 31 percent cut on the agency and appears to include significant cuts to both Superfund and brownfields programs, based upon analysis by former EPA employees.

Sources outside the agency say they believe that Pruitt has successfully fought off some proposed brownfields-related cuts, but that budget threats in those areas remain. -- *Doug Obey* (dobey@iwpnews.com)

Agri-Pulse

<https://www.agri-pulse.com/articles/9113-epa-rejects-petition-to-revoke-chlorpyrifos-tolerances>

EPA rejects petition to revoke chlorpyrifos tolerances

By Steve Davies 3/29/17, 10:03PM

WASHINGTON, March 29, 2017 - The Environmental Protection Agency has decided to continue allowing the use of the insecticide chlorpyrifos, stating that the science surrounding human health effects is too uncertain to justify its own proposed ban on food tolerances.

The agency announced the decision late today, two days ahead of a court-ordered deadline. The Natural Resources Defense Council and Pesticide Action Network had petitioned the agency 10 years ago to ban Dow AgroSciences' organophosphate insecticide (tradename: Lorsban), which is used to control a variety of crop pests, including corn rootworm and soybean aphid.

The groups have argued that food residue levels are high enough to pose a risk to the developing brain and nervous system.

But EPA said in its news release that its October 2015 proposal to revoke food tolerances "largely relied on certain epidemiological study outcomes, whose application is novel and uncertain, to reach its conclusions."

An EPA Scientific Advisory Panel convened to examine the epidemiological data used by the agency questioned the agency's use of a Columbia University study that relied on umbilical cord blood data from pregnant women to extrapolate exposure levels for children. The SAP released its report last summer.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," EPA Administrator Scott Pruitt said. "By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results."

The National Association of State Departments of Agriculture (NASDA) was quick to praise the decision.

"By maintaining the Maximum Residue Limits for chlorpyrifos, agricultural use of this important tool will continue, significant disruption of international trade is avoided, and harmonization efforts may continue globally," NASDA President and Louisiana Commissioner of Agriculture & Forestry Mike Strain said. "As state regulatory partners with EPA, we look forward to continuing to work with the agency to ensure current and future tools are reviewed in a rigorous, scientifically sound, and transparent manner."

USDA also was pleased. Sheryl Kunickis, director of the department's Office of Pest Management Policy, said the decision "means that this important pest management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world."

Kunickis also said it was "great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables," and added, "We thank our colleagues at EPA for their hard work."

Chlorpyrifos is used on more than 50 crops, including soybeans, alfalfa, wheat, citrus, fruit, tree nuts, vegetables, sugarbeets and cotton, CropLife America said in a brief filed in the 9th Circuit Court of Appeals. It is “the leading insecticide active ingredient to control a number of different insects in crops, including soybean aphids in soybeans, aphids and armyworm in alfalfa, European asparagus aphid and cutworm in asparagus, corn rootworm and lesser cornstalk borer in peanuts, and leafrollers and San Jose scale in apples.”

“The public record lays out serious scientific concerns and substantive process gaps in the proposal,” EPA said in its release. “Reliable data, overwhelming in both quantity and quality, contradicts the reliance on – and misapplication of – studies to establish the end points and conclusions used to rationalize the proposal.”

In its order denying the petition, EPA said it has “concluded that, despite several years of study, the science addressing neurodevelopmental effects remains unresolved and that further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos.”

The agency “has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues. As noted, Congress has provided that EPA must complete registration review by October 1, 2022.”

In the days leading up to the decision, environmental groups had mobilized to muster support for the proposed tolerance revocation. The Environmental Working Group collected signatures for an [online petition](#), saying that “research has linked chlorpyrifos to nervous system damage, behavioral problems and lower IQ in young children whose mothers were exposed during pregnancy. In adults, low-level exposure to chlorpyrifos can cause nausea, headaches and dizziness. Farmworkers and others who are severely exposed have suffered vomiting, muscle cramps, diarrhea, blurred vision, loss of consciousness and even paralysis.”

DTN

<https://www.dtnpf.com/agriculture/web/ag/news/crops/article/2017/03/30/epa-disagrees-previous-tact>

EPA: No Chlorpyrifos Ban

By Todd Neeley 3/29/17, 7:38PM

OMAHA (DTN) -- The pesticide ingredient chlorpyrifos will not be banned by the U.S. Environmental Protection Agency, according to a news release issued by the agency late Wednesday afternoon.

EPA Administrator Scott Pruitt announced the agency denied a petition filed by environmental groups to ban the pesticide outright, saying in a statement that farmers need chlorpyrifos.

"We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment," Pruitt said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making rather than predetermined results."

Chlorpyrifos is the main ingredient in Lorsban, Dow AgroSciences' organophosphate insecticide targeting pests such as soybean aphids, spider mites and corn rootworm.

Since being sworn in as EPA administrator, Pruitt has begun the process of turning back regulations created during the previous administration.

Dow AgroSciences said in a statement to DTN Wednesday evening that the company was pleased with EPA's decision.

"Dow AgroSciences supports U.S. Environmental Protection Agency's decision to deny the petition to revoke U.S. food tolerances and cancel the registration of chlorpyrifos," the company said in its statement.

"Dow AgroSciences remains confident that authorized uses of chlorpyrifos products offer wide margins of protection for human health and safety. This is the right decision for farmers who, in about 100 countries, rely on the effectiveness of chlorpyrifos to protect more than 50 crops. We will continue to cooperate with EPA under the established regulatory process in its scientific review of this vital crop protection solution."

Sheryl Kunickis, director of the Office of Pest Management Policy at USDA, said in a statement it was important to keep chlorpyrifos available to farmers.

"This is a welcome decision grounded in evidence and science," she said. "It means that this important pest-management tool will remain available to growers, helping to ensure an abundant and affordable food supply for this nation and the world."

"This frees American farmers from significant trade disruptions that could have been caused by an unnecessary, unilateral revocation of chlorpyrifos tolerances in the United States. It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables."

In a news release Wednesday evening, EPA said "the public record lays out serious scientific concerns and substantive process gaps in the proposal. Reliable data, overwhelming in both quantity and quality, contradicts the reliance on, and misapplication of, studies to establish the end points and conclusions used to rationalize the proposal."

The EPA said USDA "disagrees with the methodology" used by the previous administration.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," EPA said in its release.

"The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) also expressed concerns with regard to EPA's previous reliance on certain data the agency had used to support its proposal to ban the pesticide."

The road to the proposed chlorpyrifos ban began when the Pesticide Action Network North America and Natural Resources Defense Council filed a petition in 2007 to force EPA to take action on chlorpyrifos, based on concerns over drinking water. In June 2015, the U.S. Ninth Circuit Court of Appeals issued a ruling pressuring EPA to make a decision by Oct. 31, 2015, on whether or not it would establish food tolerances for the insecticide. EPA stated it did not have the data needed to do so and instead would pursue a ban.

Last summer, EPA asked the court for a six-month extension to take final action.

In a final order issued Aug. 12, 2016, the court ruled against the request by EPA and ordered the agency to take action by March 31, 2017.

Most recently, the EPA revised its human health risk assessment for chlorpyrifos in November 2016 to state that residues on food crops and in water are at unsafe levels.

There was concern that doing away with chlorpyrifos could at some point complicate the battle against insects, especially when growers are being encouraged to rotate chemistries to guard against insect resistance.

Corn accounts for chlorpyrifos' largest agriculture market as far as total pounds used because, overall, there are more corn acres than soybean acres, according to EPA. However, in recent years, use of chlorpyrifos has expanded in soybeans and has been on the decline in corn.

According to Dow AgroSciences' website, chlorpyrifos use in soybeans expanded from about 200,000 acres in 2004 to about 8 million acres in 2008. Dow estimated chlorpyrifos was applied to about 11% of soybean acres planted in 2008.

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-epa-returning-to-using-sound-science-on-pesticide-ban-reversal/article/2618829>

Pruitt: EPA 'returning to using sound science' on pesticide ban reversal

By John Siciliano 3/29/17 8:05 PM

Environmental Protection Agency chief Scott Pruitt slammed the brakes on an environmentalists' push to ban a commonly used pesticide, saying the decision marks the return of sound science to the agency.

"By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," Pruitt said on Wednesday in announcing that he is terminating the proceedings to ban the pesticide chlorpyrifos.

He said the decision maintains "regulatory certainty to the thousands of American farms that rely

on chlorpyrifos, while still protecting human health and the environment."

The large environmental activist group Natural Resources Defense Council had petitioned that the chemical be banned from use in the United States. The Obama EPA took up the petition in October 2015 and was in the middle of finalizing a ban on the substance when the Trump administration took the reins of government in January.

Pruitt pointed out that the public record showed "serious scientific concerns and substantive process gaps in the proposal," making the previous administration proposed action unreliable.

EPA said in a release that the U.S. Agriculture Department disagreed with the scientific methodology the Obama administration used in making its determination.

"Similarly, the National Association of State Departments of Agriculture also objected to EPA's methodology," it said. "The Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel also expressed concerns with regard to EPA's previous reliance on certain data the Agency had used to support its proposal to ban the pesticide."

The Agriculture Department welcomed EPA's decision, saying it will prevent major disruptions for farmers trying to find a replacement for the pesticide.

"It is also great news for consumers, who will continue to have access to a full range of both domestic and imported fruits and vegetables. We thank our colleagues at EPA for their hard work," said Sheryl Kunicki, the agency's director of pesticide control.

AP

http://hosted.ap.org/dynamic/stories/U/US_ENVIRONMENTALISTS_CLIMATE_PLAN?SITE=AP&SECTION=HOME

Environmental groups file lawsuit over Trump climate actions

By Tammy Webber and Matthew Brown 3/29/17 6:20 PM

CHICAGO (AP) -- Environmental groups that vowed to fight President Donald Trump's efforts to roll back his predecessor's plans to curb global warming made good on their promise Wednesday, teaming up with an American Indian tribe to ask a federal court to block an order that lifts restrictions on coal sales from federal lands.

The Interior Department last year placed a moratorium on new coal leases on federal lands to review the climate change impacts of burning the fuel and whether taxpayers were getting a fair return. But Trump on Tuesday signed a sweeping executive order that included lifting the moratorium, and also initiated a review of former President Barack Obama's signature plan to restrict greenhouse gas emissions from coal-fired power plants.

Environmentalists say lifting the moratorium will worsen climate change and allow coal to be sold for unfairly low prices.

"It's really just a hail Mary to a dying industry," said Jenny Harbine, an Earthjustice attorney who filed the lawsuit in U.S. District Court in Montana on behalf of the Northern Cheyenne Tribe, Sierra Club, and Center for Biological Diversity.

The White House did not immediately respond to an email seeking comment on the lawsuit. The Department of Justice declined comment.

Environmental groups have been preparing for months to fight the Trump administration's environmental rollbacks, including by hiring more lawyers and raising money. Trump, who has called global warming a "hoax" invented by the Chinese, said during his campaign that he would kill Obama's climate plans and bring back coal jobs.

Advocates said they also will work to mobilize public opposition to the executive order, saying they expect a backlash from Americans who worry about climate change.

"This is not what most people elected Trump to do," said David Goldston, director of government affairs at the Natural Resources Defense Council. "Poll after poll shows that the public supports climate action."

A poll released in September found 71 percent of Americans want the U.S. government to do something about global warming, including 6 percent who think the government should act even though they are not sure that climate change is happening. That poll, which also found most Americans are willing to pay a little more each month to fight global warming, was conducted by The Associated Press-NORC Center for Public Affairs Research and the Energy Policy Institute at the University of Chicago.

While Republicans have blamed Obama-era environmental regulations for the loss of coal jobs, federal data show that U.S. mines have been losing jobs for decades because of automation and competition from natural gas; solar panels and wind turbines now can produce emissions-free electricity cheaper than burning coal.

But many people in coal country are counting on the jobs that Trump has promised, and industry advocates praised his orders.

"These executive actions are a welcome departure from the previous administration's strategy of making energy more expensive through costly, job-killing regulations that choked our economy," said U.S. Chamber of Commerce President Thomas J. Donohue.

Trump's order also will initiate a review of efforts to reduce methane emissions in oil and natural gas production, and will rescind Obama-era actions that addressed climate change and national security and efforts to prepare the country for the impacts of climate change. The administration still is deciding whether to withdraw from the Paris Agreement on climate change.

And on Wednesday, the administration asked a federal appeals court to postpone a ruling on lawsuits over the Clean Power Plan, the Obama initiative to limit carbon from power plants, saying it could be changed or rescinded.

A coalition of 16 states and the District of Columbia said they will oppose any effort to withdraw the plan or seek dismissal of a pending legal case, while environmental advocates said they're also ready to step in to defend environmental laws if the U.S. government does not.

"The president doesn't get to simply rewrite safeguards; they have to ... prove the changes are in line with the law and science," said the NRDC's Goldston. "I think that's going to be a high hurdle for them."

Environmentalists say Trump's actions will put the U.S. at a competitive disadvantage to other countries that are embracing clean energy, which they say could create thousands of new jobs.

Even so, they believe efforts to revive coal ultimately will fail because many states and industries already have been switching to renewable energy or natural gas.

"Those decisions are being made at the state level and plant by plant," said Earthjustice President Trip Van Noppen, who said his group is "continuing to work aggressively to retire dirty coal plants."

"Coal is not coming back," Van Noppen added. "While the president is taking big splashy action, he is actually doomed to fail."

AP

http://hosted.ap.org/dynamic/stories/U/US_CONGRESS_EPA?SITE=AP&SECTION=HOME&TEMPLATE=D

House approves bill to force public release of EPA science

3/29/17 5:56 PM

WASHINGTON (AP) -- House Republicans are taking aim at the Environmental Protection Agency, targeting the way officials use science to develop new regulations.

A bill approved Wednesday by the GOP-controlled House would require that data used to support new regulations to protect human health and the environment be released to the public.

Rep. Lamar Smith, R-Texas, said "the days of 'trust me' science are over," adding that the House bill would restore confidence in the EPA's decision-making process.

Connecticut Rep. Elizabeth Esty and other Democrats said the bill would cripple EPA's ability to conduct scientific research based on confidential medical information and risks privacy

violations by exposing sensitive patient data.

The bill was approved 228-194 and now goes to the Senate.

Reuters

<http://www.reuters.com/article/us-usa-pesticide-epa-idUSKBN17039F>

U.S. EPA denies petition to ban pesticide chlorpyrifos

3/29/17 7:55 PM

The U.S. Environmental Protection Agency said on Wednesday it had denied a petition by environmental groups that sought to ban the agricultural pesticide chlorpyrifos.

In October 2015, the Obama administration proposed to revoke all food residue tolerances for chlorpyrifos, an active ingredient in insecticides. The proposal was issued in response to a petition from the Natural Resources Defense Council and Pesticide Action Network North America, the EPA said in a statement.

"By reversing the previous administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making – rather than predetermined results," EPA Administrator Scott Pruitt said in the statement.

Reuters

<http://www.reuters.com/article/us-volkswagen-emissions-idUSKBN17102C>

Volkswagen says U.S. approves sale of modified diesel vehicles

By David Shepardson 3/30/17 9:59 PM

Volkswagen AG (VOWG_p.DE) said the U.S. Environmental Protection Agency has approved its request to sell up to 67,000 diesel vehicles from the 2015 model year, including about 12,000 currently in dealer inventory with approved emissions modifications.

The vehicles in inventory were held when the company issued a stop sale in September 2015, Volkswagen spokeswoman Jeannine Ginivan told Reuters.

Ginivan said the company was finalizing details of the program.

The EPA approved a fix for about 70,000 Volkswagen diesel vehicles in January.

An EPA spokeswoman declined to comment on the matter.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-29/trump-s-coal-revival-will-make-it-harder-to-breathe>

Trump's Coal Revival Will Make It Harder to Breathe

By David Shipley 3/29/17 5:06 PM

President Donald Trump's effort to prop up the coal industry will not, over the long run, succeed -- the energy market will make sure of that. But it could impede America's progress toward stabilizing the climate, and it will certainly harm public health.

Burning coal, after all, releases a lot more bad stuff into the air than just carbon dioxide. There's also mercury, which makes its way into rivers and streams, where it's eaten by fish and, in turn, by people -- poisoning brains and nervous systems, especially those of developing fetuses.

And then there's sulfur dioxide, nitrogen oxide, any number of other volatile compounds, and particles of metal and chemicals. Aloft, this mess combines with sunlight to form smog. More than 7,500 Americans die from breathing it every year.

The Clean Power Plan -- an initiative of former President Barack Obama, and the principal target of Trump's efforts -- would have prevented as many as 3,600 premature deaths a year by 2030, according to the Environmental Protection Agency. That plan is now tied up in litigation, but Trump proposes to do away with it altogether.

It's not clear that he can, because it will require making a reasonable argument for why the EPA should suddenly stop regulating greenhouse gases. But it's a bad idea even to try.

Coal power is already dying of other causes, including the Sierra Club's Beyond Coal campaign effort (funded by Michael R. Bloomberg) to close coal-fired energy plants, and coal's failure lately to stay competitive with natural gas and even wind and solar power.

With his executive order doing away with most of the Obama administration's efforts to discourage coal use, Trump may be able to slow coal's slide. But he can't return it to its former status as America's main power source. And, because of increasing automation, he won't save coal-mining jobs. Even judged by the claims Trump makes for it, this policy is poised to accomplish nothing at all.

The Hill

House votes to restrict EPA's use of science

By Timothy Cama 3/29/17 4:57 PM

The House voted Wednesday to restrict the kind of scientific studies and data that the Environmental Protection Agency (EPA) can use to justify new regulations.

The Honest and Open New EPA Science Treatment Act, or HONEST Act, passed 228-194. It would prohibit the EPA from writing any regulation that uses science that is not publicly available.

It's the latest push by House Republicans to clamp down on what they say has turned into an out-of-control administrative state that enforces expensive, unworkable regulations that are not scientifically sound.

Even with President Trump in the White House, the GOP feels it's important to make lasting changes to how regulations are written and justified.

The House earlier this year passed a pair of bills to rein in regulations across government — the Regulations from the Executive in Need of Scrutiny (REINS) Act and the Regulatory Accountability Act.

But Democrats, environmentalists and health advocates say the HONEST Act is intended to handcuff the EPA. They say it would irresponsibly leave the EPA unable to write important regulatory protections, since the agency might not have the ability to release some parts of the scientific data underpinning them.

The HONEST Act is similar to the Secret Science Act, which leaders in the House Science Committee sponsored in previous congresses and got passed.

"This legislation ensures that sound science is the basis for EPA decisions and regulatory actions," Rep. Lamar Smith (R-Texas), chairman of the Science Committee, said on the House floor Wednesday.

"The days of 'trust-me' science are over. In our modern information age, federal regulations should be based only on data that is available for every American to see and that can be subjected to independent review," he said. "That's called the scientific method."

Smith framed his bill as an extension of the highly-regarded quest to use the best science to inform regulators.

He said the EPA — particularly under former President Obama — often hid the data it used in

regulations, preventing the public and peer scrutiny that helps ensure the science is the best available.

“We all care about the environment,” he said. “But if policies are not based on legitimate science, regulations will result in economic hardship with little or no environmental benefit. In other words, the regulations would be all pain and no gain.”

The bill would also require that any scientific studies be replicable, and allow anyone who signs a confidentiality agreement to view redacted personal or trade information in data.

Rep. Eddie Bernice Johnson (D-Texas), the Science Committee’s top Democrat, slammed her GOP colleagues for what she called a “misguided” effort to stop sensible EPA regulations.

She denied that the EPA is overly secretive with its science, saying it often doesn’t own the information and has no right to release it.

“The secret science bills the Republicans tried to enact over the previous two congresses were insidious bills, designed from the outset to prevent EPA from using the best available science to meet its obligations under the law. Those bills were constructed to hamstring the ability of EPA to do about anything to protect the American public,” she said.

The latest iteration adds the redactions and the ability to view redacted information, which Johnson called “a Pandora’s Box, which could have untold consequences for the EPA, industry and the general public,” including restricting the EPA’s ability to gather information.

“In reality, this bill isn’t about science. It’s about undermining public health and the environment,” she said.

Republicans on the Science Committee passed the bill earlier this month, alongside another bill to reform the EPA’s Science Advisory Committee. The advisory panel would be required to have geographic diversity and representatives from certain stakeholder groups.

The full House is likely to consider that bill soon.

Politico

<https://www.politicopro.com/agriculture/whiteboard/2017/03/epa-denies-chlorpyrifos-petition-085664>

EPA denies chlorpyrifos petition, scrapping Obama era finding of health risks

By Jenny Hopkinson 3/29/17, 7:51PM

The EPA has denied a petition from environmentalists calling for a ban on the pesticide

chlorpyrifos, bucking the Obama administration's findings that the chemical poses health risks.

In a notice posted to its website Wednesday evening, the agency says it will address the questions raised in the petition during a broader review of the pesticide that it expects to finish in 2022. That review will consider the concerns about potential neurodevelopmental toxicity in children that were raised in the 2007 petition from the Pesticide Action Network North America and the Natural Resources Defense Council.

The decision is a reversal from a November 2016 proposal from the EPA under then-President Barack Obama that called for revoking the pesticide's permitted tolerances — the amount of residue that can be found on crops and produce — which would have effectively banned chlorpyrifos in agricultural uses. The agency was under a court-ordered deadline to respond to the petition by Friday.

"Despite several years of study, the science addressing neurodevelopmental effects remains unresolved," EPA wrote in the notice. It said that "further evaluation of the science during the remaining time for completion of registration review is warranted to achieve greater certainty as to whether the potential exists for adverse neurodevelopmental effects to occur from current human exposures to chlorpyrifos."

The decision added that "EPA has therefore concluded that it will not complete the human health portion of the registration review or any associated tolerance revocation of chlorpyrifos without first attempting to come to a clearer scientific resolution on those issues."

InsideEPA

<https://insideepa.com/daily-news/epa-weighs-tapping-superfund-site-accounts-offset-fy18-budget-cuts>

EPA Weighs Tapping Superfund 'Site' Accounts To Offset FY18 Budget Cuts

By Suzanne Yohannan 3/29/17

EPA officials are considering offsetting massive proposed cuts to the Superfund cleanup

program in fiscal year 2018 by borrowing from “special accounts” -- site-specific accounts funded from settlements with responsible parties -- to offset any cuts and apply the money more broadly to pay for cleanup needs in the coming year.

EPA’s acting waste chief Barry Breen told a Senate panel hearing March 29 on cleaning up Cold War legacy sites that the agency is “looking for ways we can go deeper into using accounts that the Treasury Department has allowed us to set up.”

“These are interest-bearing savings accounts with the U.S. Treasury where we have put money that defendants have given us we’ve deposited there and we can draw on,” he said in response to a question from Sen. Mike Rounds (R-SD).

Breen said the agency is eyeing the approach because Congress has labeled Superfund “no-year money,” noting that the agency does not have to spend all that it is given in a particular year. “So we can look to prior years’ funding in order to fund needs in future years,” he said.

He added that EPA will also “be looking for efficiencies administratively, efficiencies in the way we move funding among accounts, and more, in order to get as much progress for the public as we can.”

While it is not clear how the agency plans to repay any funds it taps, advancing the approach may be crucial for Administrator Scott Pruitt, who has pledged to speed cleanups and delist sites from the National Priorities List. But he may be stymied by [White House plans](#) to slash \$330 million, or 30 percent, from Superfund cleanup spending in FY18.

The administration has also proposed to cut \$30 million from the \$500 million the program was slated to receive in FY17, saying the additional cuts “will ease the program into further reductions in FY 2018.”

Given such cuts, the special accounts could prove to be a significant source of funds. A 2009 report from EPA's Office of Inspector General (OIG) said at that time there was a surplus of \$1.1 billion spread over 819 special accounts.

Sources now say the surpluses may be even larger. For instance one account alone, stemming from the Obama administration's settlement with Anadarko Petroleum Corp., includes more than \$1 billion intended to address abandoned uranium mining sites on tribal land.

Special Accounts

But the plan to tap funds from the special accounts is drawing mixed reviews from attorneys and some private parties.

One attorney questions whether taking money dedicated to a particular site through a special account and using it for other sites would be a breach of contract, or in effect violate specific settlement terms. Special accounts “have been able to insulate these sites from the vagaries of the budgetary process,” the attorney says.

The attorney says the goal is to raid special accounts and move that money over to the Superfund trust fund, which would allow for the administration to request lower budgets from congressional appropriators. “It takes away money dedicated for sites that would not be available for the [Superfund] trust fund,” the source says.

An industry source downplayed such concerns but nevertheless acknowledged potential “risk” that the money would not be easily repaid if the budget were not to stabilize in future years.

“It’s an accounting matter, not a welching on the deal matter,” the source says. The money could be used now, with the understanding that it will not void future obligations by EPA to repay accounts from which it has borrowed money. This source says that obviously this could not be done every year because of the risks of being unable to pay back the accounts.

The industry source concedes EPA's approach assumes that the budget will become more stable over time so the funds can be repaid, but that there is a risk with taking this position because

EPA's budget may not be restored. The source says EPA is probably "making a reasonable risk calculation."

Cleanup Appropriations

Superfund special accounts are separate from the appropriations EPA receives for the cleanup program. Funds appropriated by Congress are dedicated to fund-lead site cleanups, removal actions, pre-remedial work and personnel, the attorney says.

Superfund special accounts, by contrast, are often set up in response to court-sanctioned settlement agreements, where settlement monies from potentially responsible parties (PRPs) are placed into a special account, to be drawn from for cleanup at the specific site for which the PRPs were liable, according to sources familiar with the mechanism.

Section 122(b)(3) under the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) authorizes EPA to retain and use settlement funds to address cleanups specified in the settlement agreement, EPA's OIG says in the 2009 report on the topic.

It notes that the agency places these funds in interest-bearing, site-specific accounts known as "special accounts."

For instance, these can include situations where smaller contributors at a site cash out and settle with EPA for their share of cleanup costs, according to an industry source. The money is then put into a special account.

The major PRPs at the site then perform 100 percent of the cleanup, and are supposed to be reimbursed from the account for the portion of cleanup for which they were not responsible, although EPA has often been slow to reimburse due to claims of further cleanup requirements at the specific site, the industry source says.

But the accounts and EPA's handling of them has come in for criticism. For example, the OIG has pressed EPA to "reclassify" at least some special account funds -- specifically those the

agency held as “reserves” -- to support other priority sites, particularly sites for which human exposure is not under control.

In the 2009 report, the OIG sought improvements to the agency’s handling of special accounts, saying its uncoordinated approach “led to missed opportunities to fund needed Superfund cleanups” and previously had recommended that \$59 million of “idle special account funds be reclassified or transferred” to the Superfund trust fund.

'External Audit'

The accounts have also drawn criticisms from top former Trump transition team officials, who are urging the administration to tap the funds.

“EPA should review the Superfund special accounts and probably then commission an external audit,” Myron Ebell, who led the Trump transition team at EPA, told *Inside EPA*. Ebell, who has now returned to the free-market Competitive Enterprise Institute, said he does not know Pruitt’s views on the matter or what EPA is planning.

Ebell had previously told the *Daily Caller*, a conservative news organization, in 2016 that the special accounts are “the very definition of an out-of-control agency, if they can raise their own money and not have to go to Congress to have it appropriated.”

The news outlet had labeled the accounts “akin to slush funds,” which may have been the impetus for the Trump beachhead team to collect information on the accounts from EPA staff during the transition, informed sources say.

Despite such criticism, the attorney says the site-specific accounts have provided benefits. In addition to funding cleanups, the special accounts have been used to pay for EPA employees. These employees would likely have to be let go, while cleanup at the special account sites “could slow depending on how much money is made available to the site from the trust [fund] and who is doing the cleanup” -- whether EPA or PRPs.

This source believes that sites where PRPs are responsible for conducting cleanups may not be affected because money from settlements with smaller PRP contributors is being used to reduce

the liability of PRPs performing the full cleanup. But this source foresees problems at sites where EPA is performing the work, paid for by PRPs into a settlement special account. If the money is transferred, then EPA will not be able to pay the cleanup contractors, the source says. -- Suzanne Yohannan (syohannan@iwpnews.com)

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Huffington Post

http://www.huffingtonpost.com/entry/epa-air-quality-studies_us_58dc3a27e4b08194e3b71ab3

Top Scientists Defense EPA Air Pollution Studies As Politicians Attack Science

By Alexander C Kaufman 3/29/17, 7:39PM

Over a year ago, the Environmental Protection Agency asked the country's top scientific body to pore over six years of studies into how air pollution affects human health. It was a move meant to quell critics who questioned the safety of conducting such research.

The National Academies of Sciences, Engineering, and Medicine finally released its findings on Tuesday, offering a resounding endorsement of the EPA's protocol for conducting tests on human subjects, along with a few suggestions on how to make the tests safer.

The 159-page report makes for humdrum reading, but its timing injects the analysis with a sense of urgency. Lawmakers emboldened by the Trump administration's assault on environmental regulations have moved to change the way science is used to draft policy to open the door to more industry-friendly or ideologically driven research.

Last month, the House Committee on Science, Space and Technology invited a coal lawyer, a chemical industry lobbyist and a libertarian scholar who has accused the EPA of "regulatory terrorism" to testify alongside a lone advocate for science as witnesses before a congressional hearing titled "Making EPA Great Again." On Tuesday, the committee's chairman, Rep. Lamar Smith (R-Texas), convened another hearing, "Climate Science: Assumptions, Policy Implications, and the Scientific Method," will "examine the scientific method and process as it relates to climate change" and "focus on the underlying science that helps inform policy decisions," according to a hearing charter. To do that, Smith fleshed out his four-person panel with a trio of prominent, like-minded climate change skeptics and attacked the credibility of Science magazine.

The report released Tuesday assesses the treatment of more than 800 participants across 21 studies the EPA conducted from 2009 to 2016, and how that research influenced policies to protect the public from toxic air pollution. But the takeaway can be applied to the agency's overall use of science in rule-making, according to Robert Hiatt, chair of the epidemiology and biostatistics department at the University of California, San Francisco.

"The studies the EPA conducts are valuable," Hiatt, the report's lead author, told The Huffington Post by phone Monday. "They contribute knowledge to making important decisions for the public."

He said the timing of the report, commissioned roughly 18 months ago by the Obama administration's EPA, was a fluke.

"It is totally bizarre and coincidental that, at the same time, this issue has come to the floor on the national political scene," Hiatt said. "The fact that they're colliding this week is totally by chance. But the relevant information is still important."

Hiatt and his team of 14 other researchers dug deep into eight experiments in particular, called controlled human inhalation exposure, or CHIE, studies that typically subject participants to hours of a pollutant to see how it affects lung function. The results of those studies are used to set EPA standards for air quality under the Clean Air Act.

The agency's scientific methods, however, weren't without flaw. In one study, Hiatt found that a 58-year-old woman suffered an irregular heartbeat during a test. Doctors immediately hospitalized her, and she was discharged two hours later when she was determined to be fine. It's not clear whether her heart rate hastened by exposure during the test or by chance due to chronic disease. Hiatt recommended EPA researchers increase the amount of information given to participants before tests. But the incident marked the only one of 845 cases that went awry, and Hiatt said researchers handled it appropriately.

"The safety of the individual was never in question," Hiatt said. "It now becomes a political decision by the country's deciders about what to do with this information."

Washington Examiner

<http://www.washingtonexaminer.com/trump-asks-federal-judges-to-delay-ruling-on-obama-era-climate-plan/article/2618799>

Trump asks federal judges to delay ruling on Obama-era climate plan

By John Siciliano 3/29/17 3:44 PM

The Justice Department is prodding federal appeals court judges to delay their ruling on the Obama-era Clean Power Plan until the Environmental Protection Agency has time to tweak the plan itself using President Trump's latest executive order as a guide.

A delay would help the Trump administration ensure that the judges don't rule favorably on any aspect of the rule that they are likely to gut in the coming months.

"EPA should be afforded the opportunity to fully review the Clean Power Plan and respond to the president's direction in a manner that is consistent with the terms of the executive order, the Clean Air Act, and the agency's inherent authority to reconsider past decisions," federal attorneys argued in a brief sent to the court Wednesday.

Deferral of further judicial proceedings is thus warranted," the brief said.

Trump's energy independence order signed on Tuesday directed EPA chief Scott Pruitt to begin a review of the Obama administration's climate plan toward the eventual goal of rescinding it. Meanwhile, a 10-judge panel of the D.C. Circuit Court of Appeals is reviewing a lawsuit by 28 states and hundreds of industry groups opposing the regulation.

The court is expected to issue a decision in the coming months, and it is unclear if it will grant the Justice Department's request.

The brief explained to the court that the EPA is closely evaluating the Clean Power Plan, in which "the prior positions taken by the agency with respect to the rule do not necessarily reflect its ultimate conclusions."

The prior positions of the EPA represented in the court were that of the Obama administration, which was defending the regulation from states' claims that the EPA overstepped the limits of its authority in drafting the regulation, and that the climate plan was unconstitutional.

Pruitt, who was formerly the attorney general of Oklahoma, was a lead voice in opposing the Clean Power Plan in the litigation before the D.C. Circuit court ahead of becoming the administrator of the EPA.

The Clean Power Plan was halted by the Supreme Court over a year ago, which states suing the agency took as vindication that the high court agreed with its claims, though the court did not lay out the reasons for staying the plan.

The plan requires that states reduce their greenhouse gas emissions a third by 2030 to help curb the effects of global warming.

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: So, Katherine[so.katherine@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Bowman, Elizabeth[bowman.elizabeth@epa.gov]
From: McGonagle, Kevin
Sent: Mon 3/27/2017 8:19:26 PM
Subject: RE: OPA Clips 3/27/17

Below: Washington Post, Washington Examiner, Mother Jones, InsideEPA, Huffington Post, Breitbart AP, Washington Examiner, InsideEPA, VICE News, E&E News (3), Reuters (via New York Times), The Hill, The Independent, Huffington Post, Bloomberg BNA (2), E&E News (4), The Hill, Washington Post, The Hill (3/26), Mashable (3/26), The Week Magazine (3/26), Washington Post (3/25), InsideEPA (2) (3/24)

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/27/trump-wants-to-cut-programs-that-help-buildings-save-energy-this-new-study-says-they-work/?utm_term=.086bb5284578

Trump wants to cut programs that help buildings save energy. This new study says they work.

By Chelsea Harvey 3/27/17 2:54 PM

A preliminary budget proposed by the Trump administration has targeted federal environmental programs left and right for elimination — and counted on the hit list are several popular energy efficiency programs, including the Environmental Protection Agency’s Energy Star Program and the Energy Department’s Weatherization Assistance Program. Cutting these money-saving programs could be a major loss for consumers, experts have warned — but also for the climate.

But even as this is happening, new research published Monday suggests that such programs for improving energy efficiency — some of which could disappear under the Trump administration’s proposed budget — have the potential to make a big dent in our greenhouse gas output.

A new study, out Monday in the journal *Nature Energy*, finds that “green” buildings in Los Angeles alone are avoiding about 145,000 metric tons in carbon dioxide equivalents each year. And there’s hope that efficiency programs in other cities may be performing similarly well.

“What we are doing has not been done before, just because there was no access to data of such quality and such coverage,” said study co-author Magali Delmas, a professor at the University of California at Los Angeles’s Institute of the Environment. Energy consumption data is typically private, she explained, which makes it difficult to compare the performance of buildings that participate in energy-saving programs with those that don’t.

But thanks to a partnership program at UCLA, Delmas and co-author Omar Isaac Asensio were able to access energy data from buildings throughout Los Angeles and use it to evaluate the performance of three separate energy efficiency programs: the federal Energy Department’s Better Buildings Challenge, the federal Environmental Protection Agency’s Energy Star certification program (which would be eliminated under the preliminary federal budget), and the private U.S. Green Building Council’s Leadership in Energy and Environmental Design, or LEED, program. Energy Star and LEED certification are awarded to buildings that meet certain performance standards, while the Better Buildings Challenge provides energy audits and public recognition for building owners that commit to reducing their energy consumption by 20 percent over the course of 10 years.

For the new study, Delmas and Asensio analyzed data on the energy use of 178,777 commercial buildings in Los Angeles from the years 2005 to 2012. They used a special algorithm to match buildings participating in an efficiency program with nonparticipating, but otherwise similar, buildings to make more accurate comparisons of energy performance.

And their findings suggest that the efficiency programs do have an impact, at least in Los Angeles. Buildings participating in the Better Buildings Challenge used 18.69 percent less energy than nonparticipants, while Energy Star and LEED-certified buildings used 19.31 and 29.99 percent less energy, respectively. In total, participating buildings — which occupied a total of 125.9 million square feet of floor space — saved 210.2 kilowatt-hours of energy, which translates into 145,000 metric tons, or nearly 320 million pounds, of avoided carbon emissions. (This also surely made the buildings cheaper to operate and maintain.)

However, the researchers point out that these savings mainly apply to large-sized buildings, not medium or small ones. According to Delmas, it’s often easier for building owners to justify the upfront costs of making efficiency upgrades in larger buildings, where the payoffs for the owners — in rent premiums or increased property value, for instance — are likely to be larger.

Despite these promising results, the new paper does have its shortcomings, according to Margaret Walls of environmental nonprofit research group Resources for the Future, who was not involved with the research. The major issue with this type of study is that participation in the energy efficiency programs is voluntary, meaning there may be an inherent bias associated with the people who choose to sign up for them.

“The gold standard for identifying a true treatment effect from a policy is a randomized control trial; an untenable approach here because participation in the programs is not randomly assigned,” Walls wrote in a commentary on the new paper, also published Monday in *Nature Energy*.

This presents a problem when evaluating the effectiveness of an energy efficiency program because it means we can’t necessarily assume that the program is what caused a building owner to make an investment in efficiency upgrades, noted energy economics expert Catherine Wolfram of the University of California at Berkeley, who was also not involved with the new study.

“Imagine that some building owners are concerned about the environment and others aren’t,” she said in an emailed comment to *The Washington Post*. “The ones that are concerned about the environment will make energy efficiency investments in their buildings and they will also probably be more likely to participate in the voluntary programs.”

But this doesn’t mean the existence of the programs is what motivated them to make the upgrades, she added. In fact, in some cases, environmentally conscious building owners might make energy efficiency investments of their own accord and then afterward enroll in programs like Energy Star out of a simple desire to receive recognition for their efforts.

So the study can’t necessarily make any definitive conclusions about whether these programs are actually causing, or motivating, the savings the researchers have observed. But it does indicate that building owners who make efficiency upgrades and are enrolled in a program — whatever the reason — are contributing to substantial reductions in greenhouse gas emissions.

And according to Walls, the researchers in this case have taken the next best possible approach with their strategy of comparing similar building types, which she argues can reduce — although likely not eliminate — the bias that results from voluntary participation in the efficiency programs. “As such, although the richness of the data and the careful matching procedures give the results merit, the magnitudes of the effects should be treated cautiously,” she wrote in her commentary, but added that the researchers “have shed critical light on the achievements of voluntary energy labeling programs for this sector.”

One question that remains is how more people — particularly those who own smaller-sized buildings — might be incentivized to start making energy efficiency investments. Simply providing better information about the long-term benefits of energy efficiency programs may help to sway some building owners, Delmas suggested.

She added that mandatory disclosure laws, which would make energy consumption data publicly available, could also help building owners to benchmark their energy use compared to other similar buildings. Nearly two dozen cities in the United States have already begun developing such disclosure programs, Walls noted in her commentary.

And while the new study can only speak for Los Angeles, Delmas noted that there’s hope that efficiency programs in other parts of the country are also paying off. Referring to a database of

energy use housed by Lawrence Berkeley National Laboratory, the researchers found that the energy use intensity patterns of commercial buildings in Los Angeles are similar to those found in other U.S. cities. There are plenty of other factors that could affect the impact of energy efficiency investments in different locations, including differences in climate, the economy and market conditions, but the researchers are hopeful that green buildings in other places are seeing real savings as well.

"It might be that Los Angeles is better advanced in terms of the number of green buildings, but I think it's indicative of what we can find in the next couple of years," Delmas said.

Washington Examiner

<http://www.washingtonexaminer.com/house-votes-this-week-to-undo-obama-era-epa-and-internet-privacy-regs/article/2618566>

House votes this week to undo Obama-era EPA and Internet privacy regs

By Susan Ferrechio 3/27/17 3:39 PM

Fresh off their failure to pass a bill to repeal and replace Obamacare, Republicans this week will return to legislation repealing Obama-era regulations and will vote on a bill the GOP believes will help end the politicization of the Environmental Protection Agency.

Tax reform remains a major agenda item Republicans hope to achieve before the August recess, but while the behind-the-scenes writing of the legislation gets underway, the GOP plans to take up other reform-minded legislation on the House floor.

The House will vote on the Honest and Open New EPA Science Treatment Act, a bill authored by Republicans and which follows years of GOP accusations that the EPA has been acting like a political arm of the Obama administration in its quest to address climate change through regulation. The bill would prohibit any future EPA regulations from taking effect unless the underlying scientific data is available to the public.

"American taxpayers have often had to foot the bill for regulations and rules based on hidden science that has not been available for review by the public," said Rep. Lamar Smith, R-Texas. "We want to change that."

Democrats are opposed to the bill and argue it would expose sensitive data that should be kept confidential.

Rep. Eddie Bernice Johnson, D-Texas, said the GOP bill would "undermine the science that the EPA can use in their work and ultimately, make it easier to pollute in our country."

The House will also vote on a bill the Senate passed last week that would roll back an Federal

Communications Commission regulation implemented in 2016 that addresses Internet privacy.

If the House passes the legislation, it will enable Internet service providers to sell user information to advertisers, and would prohibit "opting out" in order to avoid information sharing.

The legislation rolls back the regulation under a law permitting Congress to repeal executive branch actions within six months of implementation.

The FCC announced the privacy regulation in April 2016 for websites and apps. At the time, then-FCC Commissioner Tom Wheeler said the regulation "would give all consumers the tools we need to make informed decisions about how our ISPs use and share our data and confidence that ISPs are keeping their customers' data secure."

But the Senate sponsor of the legislation, Sen. Jeff Flake, R-Ariz., said the regulation was not consumer friendly and "has the potential to limit consumer choice, stifle innovation, and jeopardize data security by destabilizing the Internet ecosystem."

Mother Jones

<http://www.motherjones.com/environment/2017/03/trump-epa-brain-damaging-pesticide>

Will Trump's EPA Greenlight a Pesticide Known to Damage Kids' Brains?

By Tom Philpott 3/27/17 2:39 PM

By Friday, President Donald Trump's Environmental Protection Agency will have to make a momentous decision: whether to protect kids from a widely used pesticide that's known to harm their brains—or protect the interests of the chemical's maker, Dow AgroSciences.

The pesticide in question, chlorpyrifos, is a nasty piece of work. It's an organophosphate, a class of bug killers that work by "interrupting the electrochemical processes that nerves use to communicate with muscles and with other nerves," as the Pesticide Encyclopedia puts it. Chlorpyrifos is also an endocrine disrupter, meaning it can cause "adverse developmental, reproductive, neurological, and immune effects," according to the National Institutes of Health.

Major studies from the Mount Sinai School of Medicine, the University of California-Davis, and Columbia University have found strong evidence that low doses of chlorpyrifos inhibits kids' brain development, including when exposure occurs in the womb, with effects ranging from lower IQ to higher rates of autism. Several studies—examples: [here](#), [here](#), and [here](#)—have found it in the urine of kids who live near treated fields. In 2000, the EPA banned most home uses of the chemical, citing risks to children.

Stephanie Engel, an epidemiologist at the University of North Carolina and a co-author of the Mount Sinai paper, says the evidence that chlorpyrifos exposure causes harm is

"compelling"—and is "much stronger" even than the case against BPA (bisphenol A), the controversial plastic additive. She says babies and fetuses are particularly susceptible to damage from chlorpyrifos, because they metabolize toxic chemicals more slowly than adults do. And "many adults" as susceptible, too, because they lack a gene that allows for metabolizing the chemical efficiently, Engel adds.

But even after banning chlorpyrifos from the home, the EPA allowed farms to continue spraying it, and it while its US has declined in recent years, it remains quite high, widely used on corn and soybeans on the Midwest and fruit, vegetable and orchard crops in Washington State, California, and the Southeast. California is home to about fifth of all the chlorpyrifos applied on US farms. There, the main targets crops are alfalfa, almonds, pistachios, walnuts, tomatoes, and strawberries.

In October 2015, after a review spanning more than a decade, the EPA concluded that exposure to chlorpyrifos, posed an unacceptable risk to human health, both from residues on food and in and drinking water, and proposed a new rule that would effectively ban farm use of it. The agency also expressed concern about "workers who mix, load and apply chlorpyrifos to agricultural and other non-residential sites and workers re-entering treated areas after application."

The EPA then dragged its feet on finalizing the rule; but in August 2016, a US Federal Appeals court demanded that a decision be made by March 31, 2017, chastising the agency for its "continued failure to respond to the pressing health concerns presented by chlorpyrifos."

A few months after that order, of course, Trump won the presidency, and so his EPA team will make the final decision on chlorpyrifos. Uh-oh. Trump often trumpets his own hostility to regulation, and has backed it up by proposing a 31 percent cut in the EPA's budget. Before taking office, Trump looked to Myron Ebell of the hyper-libertarian Competitive Enterprise Institute to lead the EPA's transition. Ebell focuses mainly on denying climate change and promoting fossil fuels, but as I noted in November, CEI runs a website, SafeChemicalPolicy.org, that exists to downplay the health and ecological impacts of pesticides.

Trump's pick to lead EPA, former Oklahoma Attorney General Scott Pruitt, is a non-scientist with little track record in assessing the health risks posed by chemicals. But he does hew to Trump's general hostility to regulation. At his confirmation hearings, Pruitt couldn't name a single EPA regulation he supports, and even declined whether he'd finalize the EPA's proposed ban on asbestos.

Meanwhile, Dow and the pesticide industry trade group CropLife America are pushing the EPA to backtrack on the chlorpyrifos ban. "The court ordered EPA to make a final decision on the petition by March 31, 2017, but did not specify what that decision should be," Dow noted in a Nov. 10 press release urging the agency to maintain the status quo.

Dow AgroScience's parent company, Dow Chemical, has also been buttering up Trump. The company contributed \$1 million to the president's inaugural committee, the Center for Public Integrity notes. In December, Dow Chemical Chairman and CEO Andrew Liveris attended a post-

election Trump rally in the company's home state of Michigan, and used the occasion to announce plans to create new 100 jobs and bring back another 100 more from foreign subsidiaries. Around the same time, Trump named Liveris chair of the American Manufacturing Council, declaring the chemical exec would "find ways to bring industry back to America." (Dow has another reason beside chlorpyrifos' fate to get chummy with Trump: its pending mega-merger with erstwhile rival DuPont, which still has to clear Trump's Department of Justice.)

Kristin S. Schafer, policy director for the Pesticide Action Network, says it would be highly unusual for the EPA to backtrack on a decision to ban a chemical after so strongly signaling that it would. (PAN is one of the advocacy groups that sued the EPA in 2014 over its previous lack of action on chlorpyrifos.) But she added that "all bets are off with this administration."

She pointed out that the EPA and Dow have been battling over the chemical since the Clinton Administration. Back in 1996, the agency fined the company \$732,000 for failing to disclose more than 100 reports of chlorpyrifos poisoning. "These reports are particularly important," the agency complained, because chemicals enter the marketplace without any human testing, and poisoning notices "may document effects not seen in animal studies, or indicate areas which warrant further research." Most of those alleged poisoning incidences involved exposure in the home—chlorpyrifos was then the most-used household and yard insect-killer. By 2000, as noted above, the EPA had seen fit to ban most home uses of the insect killer.

In an analysis of the risks posed by chlorpyrifos released in November 2016, the EPA crunched data on residues found in food and compared them to the levels at which the chemical can harm the most vulnerable populations: kids and women of child-bearing age. The results (found on page 23 of the EPA doc) are startling. Natural Resources Defense Council researchers turned them into this handy graphic.

It would be quite something for the Trump administration to dismiss such overwhelming evidence from EPA scientists and continue allowing chlorpyrifos to be sprayed on crops with few restrictions. But he has already displayed a willingness to trash the agency's rule-making process to placate his Big Ag supporters.

InsideEPA

<https://insideepa.com/daily-news/environmentalists-fault-pruitts-use-jobs-study-undercut-vehicle-rules>

Environmentalists Fault Pruitt's Use Of Jobs Study To Undercut Vehicle Rules

By Doug Obey 3/27/17

Environmentalists are criticizing EPA Administrator Scott Pruitt's reliance on a study by a deregulatory group that claims the agency's vehicle GHG rules are responsible for moving jobs to Mexico to bolster his decision to reconsider the rules, saying it appears based on little actual

study but is being cited in a hasty effort to shore up administration claims that its regulatory rollbacks protect employment.

The critique -- including criticism from the Safe Climate Campaign's Daniel Becker, a high-profile defender of EPA's vehicle rules and fuel economy requirements -- comes in response to Pruitt's citation of the study, conducted by an official at the National Center for Policy Analysis (NCPA), in the administrator's op-ed in USA Today that defends his recent decision to reopen EPA's vehicle GHG standards for model years 2022-2025.

The op-ed raises concerns the rules would cost the industry \$200 billion -- a figure that corresponds to EPA's cumulative cost estimates for the entire MY12-25 light-duty vehicle GHG regulatory program, but not the MY22-25 rules that the Trump team is reviewing.

And Pruitt's editorial came just prior to an analysis by the International Council on Clean Transportation saying that even the Obama EPA greatly overestimated compliance costs for its vehicle GHG program.

In addition, California officials late last week decided to retain the state's vehicle GHG standards for MY22-25 that currently align with national rules, likely limiting the Trump administration's ability to adopt a broad rollback of the current requirements -- though state officials invited the industry to discuss implementation concerns.

Still, environmentalists are now taking particular aim at Pruitt's use of an analysis floated by the NCPA -- a deregulatory, free-market group backed by the Charles Koch Charitable Foundation and ExxonMobil -- suggesting that the vehicle GHG rules export jobs.

“The [NCPA] analysis says these standards have pushed manufacturing and jobs to Mexico,” Pruitt said in the op-ed, citing the conclusion as a central reason for EPA and the Transportation Department to revisit their GHG and fuel economy standards, in line with the Trump administration's goal of boosting U.S. manufacturing.

The NCPA analysis is actually a relatively cursory, nine-paragraph blog entry on the group's

website. The post leads off by describing auto manufacturer Ford as “taking heat” for deciding to build all small cars in Mexico.

“Given that Ford sales have risen strongly since the recession, what is the reason for this change in direction?” the analysis asks rhetorically, calling labor costs “the easy answer.”

But the NCPA post says it is also “likely” that the vehicle regulations have “helped them to shift jobs south.” It makes a general argument that fuel economy standards impose costs, and that small cars are less profitable, but it does not include analysis linking EPA's rules with specific domestic job losses. It also omits reference to the global push for greater vehicle fuel efficiency in major markets such as China and Europe.

'Ideological Platitudes'

It is not clear if the post is a prelude to more analysis, but Becker is already circulating a line-by-line rebuttal of the analysis and Pruitt's citation of it. The post is “little more than a rambling collection of ideological platitudes” with “a number of simple, factual errors.”

Becker argues that the post lacks “any logical arguments for why the footprint-based [GHG and fuel economy] standards would in fact lead to jobs going to Mexico.” He also claims the author has “absolutely zero credentials” related to the auto industry, regulatory policy or trade policy.

And he references NCPA's funding from oil interests, citing several specific errors or odd statements in the blog post, including an apparent criticism of “complex” provisions in the rules -- supported by the auto industry -- that allow automakers to comply with efficiency requirements using “average fuel economy across its respective fleet.”

“[F]irst person I know of to criticize [fuel economy]/GHG averaging!” Becker notes, adding that the post also appears to have an erroneous statement that the Ford Focus “lowers the overall [miles per gallon] across the Ford fleet.”

More broadly, Becker targets Pruitt's reliance on the NCPA blog post. Administration officials are “relying on [an] unreliable source, [and are] failing to check [their] facts.”

And he said the op-end offers “no account of the [rule's] benefits,” echoing criticism in recent days that Pruitt's discussion of the cumulative program costs omits projected fuel savings and other benefits that are more than triple the cost figures.

He adds that Pruitt's article ignores the auto sector's “record sales and profits” over the past two years.

Additionally, Becker highlights a general Pruitt statement that improved technology from 1970-2015 has made the United States the world leader in clean air quality. “Improved technology AND THE REGULATIONS THAT REQUIRED THEM has made the United States the world leader in clean air quality,” he writes. -- *Doug Obey* (dobey@iwpnews.com)

Huffington Post

http://www.huffingtonpost.com/entry/trump-executive-order-climate-change_us_58b07ebae4b060480e079dc2

Donald Trump Is About To Undo Obama's Legacy On climate Change

By Alexander C Kaufman 3/27/17 1:41PM

President Donald Trump plans to sign an executive order on Tuesday rolling back Obama-era policies to curb planet-warming greenhouse gas emissions, Environmental Protection Agency Administrator Scott Pruitt said Sunday.

In an interview on ABC's “This Week,” Pruitt said the order will be called the “Energy Independence Executive Order.” It is expected to undo former President Barack Obama's signature program to deal with climate change, the Clean Power Plan, which limited greenhouse gas emissions from power plants.

“We have made tremendous progress on our environment. We can be both pro-jobs and pro-environment,” Pruitt said. “The executive order will address the past administration’s effort to kill jobs throughout the country through the Clean Power Plan.”

The executive order will likely take other measures to protect the coal industry, such as instructing the Department of the Interior to lift a temporary ban on coal leasing on federal lands that the Obama administration put in place last year. The order is also expected to scrap federal guidances instructing agencies to factor climate change into policymaking, and to disband a team tasked with calculating the “social cost of carbon.”

Undoing The Clean Power Plan

Trump’s executive order will likely kneecap the federal government’s most important policy for reducing carbon emissions. Doing so would also hamper U.S. efforts to meet the commitments made more than a year ago in the 195-country Paris Agreement — the first global climate deal to include the U.S. and China, the world’s biggest polluters.

The long-expected order would give teeth to Trump’s America First Energy Plan, a vague policy outline he issued after his inauguration to eliminate Obama’s Climate Action Plan.

Obama’s plan, launched in 2013, set a strategy for combating climate change by cutting greenhouse gas emissions from power plants. The utility sector accounts for the greatest portion of the U.S. carbon footprint, producing 30 percent of all emissions, according to 2014 data from the EPA. That’s largely because coal, by far the dirtiest-burning fossil fuel, has long served as the country’s primary source of electricity.

The core of Obama’s initiative was the Clean Power Plan, a sweeping EPA rule that aimed to reduce carbon emissions from existing power plants by 32 percent below 2005 levels. The policy set new standards for new natural gas-burning power plants, and put stricter limits on coal-fired, steam-based plants. By implementing the plan, the U.S. hoped meet its emissions reduction goals as part of the 2015 Paris climate agreement. (The failure of previous global deals, such as the 1992 Kyoto Protocol, hinged partly on the United States’ refusal to implement emission cuts.)

The president's elder daughter, Ivanka Trump, and her husband, White House senior adviser Jared Kushner, convinced the president to remove language from his new order that was critical of the Paris accord, according to The Wall Street Journal. It's unclear how the U.S. can meet its commitments without the Clean Power Plan in place.

Last year, a coalition of Republican-controlled states — led by Pruitt, who was then Oklahoma's attorney general — filed a lawsuit to stop the emissions rules, prompting the Supreme Court to grant a stay suspending implementation. Pruitt launched at least 13 lawsuits against the EPA before he became the agency's administrator last month.

Repealing those rules could prove expensive and deadly, costing the U.S. economy up to \$600 billion by removing critical incentives to increase energy efficiency, according to the research firm Energy Innovation. The CCP's repeal could lead to billions of tons of carbon being released into the atmosphere, which in turn could contribute to more than 120,000 premature deaths, according to a writeup of the study in Forbes.

Still, another Supreme Court decision may hinder the Trump administration's efforts to completely scrap the plan. In 2007's *Massachusetts v. EPA*, the court ruled that greenhouse gas emissions constituted pollution, requiring the EPA to take action. Plus, courts work both ways: Environmental groups are widely expected to sue over attempts to stop cutting emissions.

"In order to make policy change, it's going to need to be supported by the science, and that's where I think ultimately the effort is going to founder," Pete Fontaine, a veteran environmental lawyer who worked at the EPA, told The Huffington Post. "Yes, you can cut programs and you can go about it with your fiscal authority to try to change policy, but in order to modify regulations, you have to be able to withstand an arbitrary-and-capricious standard."

Such standards, which can be used to overturn previous court rulings, would need to stand the test of climate science, Fontaine said.

"Facts will not be changed by people expressing beliefs in an alternative set of facts," he said.

"The science is well settled on climate change, and that science is based on literally more than a century of scientific inquiry and the laws of physics, which are going to govern here no matter what people say is contrary to their beliefs."

Yet a battle appears to be brewing in the Trump administration over the future of the endangerment clause, policy that spawned from the Supreme Court's ruling categorizing carbon dioxide and methane emissions as a public health threat. David Schnare, an appointee from the EPA transition team, quit suddenly earlier this month in part because Pruitt refused to take on the clause, [Politico](#) reported.

"The backstory to my resignation is extremely complex," Schnare told [E&E News](#), an energy and environment news wire. "I will be writing about it myself. It is a story not about me, but about a much more interesting set of events involving misuse of federal funds, failure to honor oaths of office, and a lack of loyalty to the president."

By lifting the temporary moratorium on coal leasing, the Trump administration is ending a policy aimed at lessening the environmental impact of mining and increasing the government's yield on investment.

The current rules grant coal companies the right to apply to schedule leases at times favorable to them, as well as to design the tracts and control the terms on which they're offered. Critics say the standards are lopsided, giving coal producers above-market-value cuts of revenue generated from mining.

The government levies an 8 percent cut of revenue from underground mining and takes 12.5 percent from surface mining, which includes environmentally destructive techniques such as mountaintop removal and open pit mining. That money is split between the federal government and the state where the coal is mined.

But Dan Bucks, former director of revenue for the state of Montana, a major coal producer, said the leasing program is "essentially broken," with more than 90 percent of leases awarded without real competition.

"Lease payments, for those of us who have examined from outside can determine, have failed the market value standard test," he said. "The American people have been shortchanged on the leasing side as well as the royalty side."

"The Obama administration wanted to fix that," added Bucks, who is [not aligned](#) with either Democrats or Republicans. "They wanted to update the leasing program so public issues, namely environmental issues and climate change, could be taken into account before leases

were offered.”

Trump vowed to resuscitate the coal business by axing environmental rules that he and the industry blame for years of decline and thousands of layoffs. Those promises won him big victories in coal country. But shrinking market demand has actually played a bigger role in coal’s decline.

Cheaper, cleaner-burning natural gas has devoured coal’s share of the electricity market over the past decade. In response, coal companies have bet big on continued demand from China. But Chinese demand peaked in 2012, and has since plummeted due to the country’s slowing economy and a move to suspend the construction of coal-fired power plants in favor of renewable energy.

A War On Environmental Protections

Trump has put numerous other environmental regulations on the chopping block since his inauguration. He and many Republican lawmakers argue that these rules created unnecessary and at times pricey hurdles for corporations and small businesses.

Last week, the White House proposed slashing the EPA’s budget by nearly one-third, a move that would eliminate popular programs like Energy Star and environmental justice initiatives, and would cripple the agency’s enforcement division. The EPA scrapped a rule earlier this month requiring oil and gas drillers to report leaks of methane, a greenhouse gas 40 times more potent than carbon dioxide.

Last month, after House Republicans voted to overturn a rule protecting waterways from coal mining pollution, Trump signed an order instructing the EPA and Army Corps of Engineers to overhaul the 2015 Waters of the United States rule, which expanded federal control over wetlands and other waterways by 3 percent. The rule essentially provided guidelines on whether anti-pollution laws would apply if, for example, a farmer dams a stream to make a pond for livestock or a developer fills in a marsh to build a new house.

But in the view of the country’s top environmental policymaker, the pendulum swung too far in the direction of environmentalists under the previous administration, and course correction is needed.

“We need a pro-growth and pro-environment approach for how we do regulations in this country,” Pruitt said on Sunday. “For too long, we have accepted a narrative that if you’re pro-growth, pro-jobs, you’re anti-environment.”

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Breitbart

<http://www.breitbart.com/big-government/2017/03/27/epa-administrator-scott-pruitt-calls-the-paris-agreement-a-bad-deal/>

EPA Administrator Scott Pruitt Calls the Paris Agreement a ‘Bad Deal’

By Sean Moran 3/27/17

EPA Administrator Scott Pruitt lambasted the Paris Agreement on Sunday, calling it a “bad deal.”

The Paris Agreement is an international agreement to reduce carbon emissions.

Pruitt criticized the Paris Agreement, saying that countries such as China and India receive more favorable treatment compared to western nations. He said, “You know, what was wrong with Paris was not just that it was, you know, failed to be treated as a treaty, but China and India, the largest producers of CO2 internationally, got away scot-free.”

He continued, “They didn’t have to take steps until 2030. So we’ve penalized ourselves through lost jobs while China and India didn’t take steps to address the issue internationally.”

Pruitt summarized the Paris Agreement, saying, “So Paris was just a bad deal, in my estimation.”

The EPA administrator said that he will focus on “getting things right here domestically and making sure we operate within the framework of the Clean Air Act.”

Pruitt previewed an executive order that the President will sign on Tuesday that unravels the Clean Power Plan and rebalances the interests between environmentalism and economic growth. He said that “the president is keeping his promise to the American people this week with respect to the executive order coming down on Tuesday – the energy independence executive order. We need a pro-growth and pro-environment approach for how we do regulations in this country.

“For too long, we have accepted a narrative that if you’re pro-growth, pro-jobs, you’re anti-environment. That’s not where we have been as a country. We have made tremendous progress

on our environment, we can be both pro-jobs and pro-environment. The executive order will address the past administration's effort to kill jobs throughout the country through the Clean Power Plan."

AP

http://hosted.ap.org/dynamic/stories/U/US_FLINT_WATER_FUNDING_FACT_CHECK?SITE=AP&SECTION=HOME

AP Fact Check: Obama, Trump Had Role in Flint Water Relief

3/27/17, 1:30PM

WASHINGTON (AP) -- President Donald Trump and former President Barack Obama had a hand in last week's grant of \$100 million to address the lead in the drinking water crisis in Flint, Michigan, despite a report that seeks to give Trump credit for the funding. The report also says Obama refused to give money to Flint, which is false.

The federal Environmental Protection Agency, which is part of the executive branch of government led by the president, announced last week that it had granted \$100 million to the state of Michigan to fund drinking water infrastructure upgrades in Flint. The EPA said in its announcement that the funding was provided by the Water Infrastructure Improvements for the Nation Act of 2016, a measure passed by Congress and signed into law by Obama in December.

The law provides a total \$170 million to address drinking water safety issues. Part of the money is set to go to new pipes for Flint, where residents have struggled with lead-tainted water for nearly three years.

The \$100 million grant was awarded earlier this month after the EPA reviewed and approved a formal request from state officials, the EPA said.

A story by the right-wing partisan website The Red Elephants is headlined, "Trump's EPA sending \$100 million to Flint to fix water - something Obama refused to do." Another from the Conservative Tribune reads: "First Real Hope for Flint Water as Trump Bestows \$100 Million." Obama pledged \$80 million in funding to Michigan to address drinking water issues during a visit to the state in January 2016.

Washington Examiner

<http://www.washingtonexaminer.com/judicial-watch-sues-epa-over-environmental-justice-program/article/2618554>

Judicial Watch sues EPA over 'environmental justice' program

By Todd Shepherd 3/27/17 2:04 PM

Judicial Watch is taking the Environmental Protection Agency to court in an effort to pry loose information about several "environmental justice" grants doled out by the agency.

The watchdog group is seeking copies of the EPA's proposals and awards for environmental justice grants delivered in 2014 and 2015, and said it hasn't been provided with any documents yet.

"This is a simple records request and the fact that the Obama EPA ignored it for years tells you the agency has something to hide," Judicial Watch President Tom Fitton said in a press release.

The environmental justice program seeks to measure the environmental impact of industry and development as it relates to minority populations, but conservatives have complained that the effort funds progressive groups that are only interested in slowing down any development at all through lawsuits and rulemaking.

For the watchdog group, it's another opportunity for the new administration to provide greater transparency by legally releasing older information that was held back in FOIA requests by the Obama administration. But those hopes haven't been met so far.

Just two weeks ago, Judicial Watch was in court seeking to force the State Department to locate missing emails from Hillary Clinton's tenure. Even though the Trump administration had the reins on a case that originated in the Obama administration, lawyers for the State Department indicated they would follow the same course as they had previously, and ask for a complete dismissal of the case.

InsideEPA

<https://insideepa.com/daily-news/environmentalists-eye-law-science-fight-trumps-cwa-rule-revisions>

Environmentalists Eye Law, Science To Fight Trump's CWA Rule Revisions

By David LaRoss 3/27/17

Environmentalists plan to use Supreme Court precedent and extensive scientific data to fight the Trump administration's expected revisions to weaken EPA's Clean Water Act (CWA) jurisdiction rule, saying an executive order (EO) forcing the changes conflicts with high court rulings and the existing rule's scientific justification.

President Donald Trump's Feb. 28 EO requires EPA and the Army Corps of Engineers to reconsider their joint 2015 rule defining the water law's reach, and to weigh replacing it with a regulation based on the late Justice Antonin Scalia's restrictive test for when waterbodies are protected by the CWA set out in the 2006 case *Rapanos v. United States*. Such an approach would reverse the Obama administration's reliance on Justice Anthony Kennedy's broader test from the same case that determines jurisdiction based on a "significant nexus" between waters.

But environmental attorneys say any rule based on the Scalia test will be vulnerable to court challenges both because a majority of the high court opposed that method in *Rapanos*, and also because it does not comport with the data the Obama administration gathered to support its rulemaking.

"The science and the law are so intertwined in this situation that it's going to be difficult for them to just say 'oops, we just changed our interpretation of the Clean Water Act,'" says one attorney.

A second environmental attorney says groups will argue in comments on any proposed Trump CWA rulemaking that Scalia's test would fail to achieve the CWA's stated goal of protecting navigable waters' "chemical, physical, and biological integrity."

"We are definitely gearing up to be prepared to load the record with the reasons why the Scalia test is not consistent with the goals of the Clean Water Act and is not consistent with the science," the second attorney says.

How to determine when wetlands or smaller, isolated or intermittently flowing waters should be covered by the CWA is a long-running dispute that the courts have yet to resolve clearly.

In *Rapanos*, Scalia wrote for a four-justice plurality that only "relatively permanent" waters that share a "continuous surface connection" with navigable waters can be jurisdictional. However, Kennedy, writing alone in a concurring opinion, held that any waters that share a "significant nexus" with navigable waters are covered by the CWA. Each justice said the other's test was unlawful, making it difficult to reconcile the two opinions into a majority holding.

Meanwhile, the court's four liberals dissented, seeking a still more expansive jurisdiction test but generally agreeing with the principles of Kennedy's opinion.

The fractured 4-1-4 decision left an unclear precedent for regulators and lower courts to follow.

Appellate courts have variously held that Kennedy's test alone should determine CWA jurisdiction, or that any water satisfying either test should qualify.

But none has yet held that Scalia's test should control, which will make it difficult to win approval for a rule based on the "continuous surface connection" standard, the attorneys say.

"It is laughable from a legal standpoint. Five justices -- which is a majority of the Supreme Court the last time I checked -- rejected Justice Scalia's approach to what is protected," a third environmental attorney says.

Court's Ruling

However, an industry attorney says the Trump administration could invoke the high court's 1977 ruling that guided lower courts on interpreting split decisions, *Marks v. United States*, that says courts should apply whatever common holding links the justices who agreed on the case's ultimate outcome.

Since Kennedy and Scalia agreed that the wetland at issue in *Rapanos* should not be covered by the CWA, while the dissenters said it should be, that means courts should look for commonalities in the "significant nexus" and "surface connection" standards, the source says.

"Scalia's [test] is clearly a subset of the significant-nexus test. Any waterbody that has a surface connection is going to have a significant nexus. That makes Scalia's test the common holding in *Rapanos*," the industry attorney says.

The attorney continues that judges should consider Scalia's opinion a majority ruling even though Kennedy explicitly called it unlawfully narrow in his concurrence.

"That Scalia told Kennedy 'your position is baloney' and Kennedy told Scalia 'your position is baloney' doesn't make any difference. . . . The courts have to look and make their own independent judgment about how these differing opinions interrelate," the industry attorney says.

But the environmental attorneys say that interpretation is weak, and will alienate Kennedy if he is still on the court when it considers the Trump rule.

"I don't look forward to this rule being undermined, but if it is, I look forward to that argument," the third environmental attorney says.

And the first attorney says lower courts will be loath to overlook Kennedy and Scalia's disagreement over basic principles of the CWA.

"The legal interpretation from the *Rapanos* case has to be the one where there is a common rationale among all the concurring opinion -- you can't just cut out a huge swath of Justice Kennedy's opinion and say that's the holding of *Rapanos*. We would fight that tooth and nail," the source says.

Scientific Analysis

Beyond interpretations of *Rapanos*, the environmental attorneys say the scientific analysis the Obama EPA conducted to support a rule based on the significant-nexus test will provide a host of arguments to attack a rule that uses Scalia's test instead -- especially since the Trump administration has signaled that it will not revisit that record.

The record supporting the 2015 rule includes a broad array of studies concluding that waters lacking continuous surface connections to navigable waterways can still transfer pollution to those navigable waters, and thus, that determining jurisdiction based on a significant nexus is necessary to protect water quality as the CWA requires.

The third environmental attorney says that as long as the Obama EPA's findings remain in the rulemaking record, "that will be inconvenient for" the Trump administration in court.

Nevertheless, in their joint March 6 *Federal Register* notice announcing the beginning of efforts

to rework the CWA rule, EPA and the Corps invoked executive authority to reverse a prior administration's actions based on new legal interpretations. "Importantly, such a revised decision need not be based upon a change of facts or circumstances," the notice said.

But the first environmental attorney says that even if the agencies have authority to reverse course in some cases, the severity of the coming switch ensures they will face a higher standard to show that the new policy is well-reasoned. "They're going to face more intense scrutiny from the courts because of that 180-degree turn," the source says.

The second environmental attorney says groups that have supported the Obama administration's rule will use public comments on the impending proposal, and public-relations campaigns outside of the rulemaking process, to build evidence that a Scalia test lacks scientific or popular support.

"We have a very broad campaign and a lot of people -- hunters and anglers and other sporting groups who really care about this issue. We are going to keep talking about it, letting the president know that we're not going to stand by and support this rulemaking," that source says.

Further, the second attorney continues, environmentalists will be examining regulators' new jurisdictional findings issued in advance of the new rule, and could challenge those that seem to apply a narrower reading of the CWA than the Bush-era guidance issued after *Rapanos* that mainly relied on Kennedy's test. Advocates will be looking "for significant changes in the application of the *Rapanos* guidance," that attorney says. -- *David LaRoss* (dlaross@iwpnews.com)

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VICE News

<https://news.vice.com/story/trump-and-his-epa-chief-are-ready-to-wage-war-on-environmental-protections>

Paris was "a bad deal"

By Carter Sherman 3/27/17

Two days before President Donald Trump plans to sign a sweeping executive order to roll back Obama-era environmental protections, his EPA chief called the landmark 2015 international agreement to fight climate change “just a bad deal” for the U.S.

“China and India, the largest producers of CO₂ internationally, got away scot-free,” EPA head Scott Pruitt said in a Sunday ABC interview. Pruitt was referring to the Paris Climate Agreement, in which almost every country in the world committed to decreasing emissions of climate change-causing greenhouse gas, such as carbon dioxide (CO₂). Unlike in previous agreements, both developing and developed countries pledged to help.

“[China and India] didn’t have to take steps till 2030,” Pruitt went on. “So we’ve penalized ourselves through lost jobs while [they] didn’t take steps to address the issue internationally. So Paris was just a bad deal, in my estimation.”

While on the campaign trail, Trump said he would “cancel” the Paris agreement.

Pruitt also labeled the Clean Power Plan, an Obama initiative to cut power plants’ carbon pollution, as part of “past administration’s effort to kill jobs throughout the country.” The plan — already stayed thanks to a lawsuit Pruitt helped originally bring — was seen as an important part of meeting the goals the United States set in the Paris accord.

Yet Pruitt’s comment that China and India are the “largest producers of CO₂ internationally” may be misleading. While China does emit more carbon dioxide than any other country in the world, the next-biggest emitter is not India, according to the U.S. Energy Information administration. That would be the United States.

While China’s energy consumption led the country to emit more than 9,000 million metric tons of carbon in 2014, the United States released about half that amount — even though the United States has less than a third of China’s population. India emitted only about 1,800 million metric tons of carbon dioxide that year.

China and the United States’ carbon emissions have declined in recent years, leading the global rate of carbon emissions to flatten even as the world economy grows. Experts say this trend may represent a “decoupling” of the conventional wisdom that economies cannot grow and go green at the same time.

But the United States’ carbon emissions may soon be on the rise again, as Pruitt revealed in his Sunday interview that Trump’s executive order will review, rescind, or revise several federal environmental protections. And its impact may be immense, according to details of the order shared with Bloomberg News.

Not only will the Clean Power Plan likely be dismantled, but other regulations are also at risk. For instance, during the Obama administration, officials had to often calculate the effects of climate change by factoring a metric called “the social cost of carbon” into their decision-making. Trump’s executive order is expected to end that policy.

These changes may help resurrect the ailing U.S. coal industry, which Trump promised to improve during his campaign.

It's unclear whether Trump will use the order to withdraw from the Paris accord, but Pruitt said that the Clean Power Plan was "not tethered" to that agreement, suggesting that Trump may pull the United States out of the deal later on.

"This is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country," Pruitt said of the order.

E&E News

<http://www.eenews.net/greenwire/2017/03/27/stories/1060052132>

Study finds human 'fingerprint' on extreme weather

By Hannah Hess 3/27/17

Human-caused global warming is changing the behavior of the jet stream in a way that intensifies droughts, wildfires and floods, according to a new study.

The research found what they call a "fingerprint" showing the impacts of climate change on the way extreme weather moves around the planet. Using computer simulations, historical temperature data going back as far as 1880 and roughly 50 climate models, a team of international scientists connected the dots.

"We came as close as one can to demonstrating a direct link between climate change and a large family of extreme recent weather events," said Michael Mann, a professor of atmospheric science at Pennsylvania State University and lead author of the study, published today the journal Scientific Reports.

Mann, known for his iconic "hockey stick" analysis of global warming trends, said the simulations demonstrate that rising levels of greenhouse gases are behind the conditions that halt the movement of the jet stream, locking in place disturbances.

Warming in the Arctic plays a key role, according to researchers. The wind patterns are largely driven by the temperature difference between the poles and the tropics, but climate change is shrinking that difference, creating the conditions for waves to pause over one part of the planet for an extended period.

"If the same weather persists for weeks on end in one region, then sunny days can turn into a serious heat wave and drought, and lasting rains can lead to flooding," said co-author Stefan Rahmstorf, a climate scientist at the Potsdam Institute for Climate Impact Research in Germany.

A series of unusual weather events piqued the researchers' interest. The lethal 2003 European heat wave led to the hottest summer on record and a reported death toll of around 70,000. In 2010, Pakistan experienced heavy rain and flooding while Russia was hit with a heat wave and wildfires. Texas and Oklahoma were devastated by a 2011 heat wave and drought.

Each of those events, and the drought that hit California in 2015, came about when the jet stream was in the "fingerprint" identified by the research. While climate models do not reliably track individual extreme weather events, they do reproduce the jet stream patterns and temperature scenarios that in the real world lead to torrential rain for days, weeks of broiling sun and an absence of precipitation.

"What's up next is to examine the model projections of the future and see what they imply about what might be in store as far as further increases in extreme weather are concerned," Mann said.

E&E News

<http://www.eenews.net/greenwire/2017/03/27/stories/1060052129>

GOP uses security arguments to shield climate action

By Sam Mintz and Hannah Hess 3/27/17

Even though climate change can be politically toxic for many Republicans, linking the issue to national security and citing military leaders' acceptance of global warming is prompting more GOP lawmakers to act.

Earlier this month, 17 Republicans introduced a measure, H. Res. 195, that calls for Congress to recognize the threat climate change poses and commit to acting on it.

The resolution, sponsored by Rep. Elise Stefanik (R-N.Y.), cites the Department of Defense's 2014 Quadrennial Defense Review, which describes the effects of climate change as "threat multipliers" that could contribute to poverty, environmental degradation, political instability and social tensions (Greenwire, March 15).

A spokesman for Stefanik said she "will be engaging in discussions with members to build support for this resolution and believes that national security is an area of particular concern to some members."

Rep. Brian Mast (R-Fla.), in supporting the resolution, refers to the connection between carbon dioxide emissions and a warming planet as "settled science." Mast is a multi-tour combat veteran of the war in Afghanistan.

"This was an easy one for me to sign up for," Mast said during a press briefing.

He said the measure is particularly attractive for "those of us who spend time in the arena of foreign affairs and in the military especially, because we're constantly looking for those places that can present upheaval or can present disruption throughout the world."

At around the same time as Stefanik, Mast and their colleagues introduced the resolution, previously unpublished statements from Secretary of Defense James Mattis revealed the former Marine general had told senators he sees climate change as a threat to national security that requires a "whole of government" response (E&E News PM, March 14).

Mast agreed with Mattis. "That's the truth about it, whether you're talking about it from agriculture, energy or military," he said. "It is something that requires a whole of government response."

Rep. Carlos Curbelo, the South Florida Republican who has emerged as one of his party's most vocal congressional allies of climate action, sees Mattis as one of his best hopes for a constructive relationship with the Trump White House on global warming.

Curbelo, during the briefing, pointed to Mattis and Secretary of State Rex Tillerson as two Cabinet members "who are on the record talking about this issue, and who have called for solutions and for meaningful government engagement on this issue."

Mattis' statements also stuck out for Rep. Lee Zeldin (R-N.Y.), who is part of the 26-member, bipartisan Climate Solutions Caucus but did not sponsor the resolution.

"Something that I took notice of, over the course of the last couple weeks, is Secretary Mattis in his hearings making his position clearer that he has a vision consistent with what the QDR said, which, I didn't know that he was going to go in that direction, but I certainly took notice of it," Zeldin said.

'Bridge to action'

Republican environmental advocacy group republicEn is carefully watching the resolution and how it ties to national defense.

"The pragmatism of seeing a risk, running toward it, and dealing with it is one of those traits that we admire in our military personnel," said Alex Bozmoski, director of strategy and operations at republicEn. "Showing how that applies to climate change would be an important step for our country,"

Bozmoski said the security angle helps foster a sense of urgency on climate. "I think that can be a bridge to action, because the urgency of security risks really renders awkward the position that 'climate change is a real, but I don't have a solution for it,'" he said.

It's important for Republicans to move faster to embrace climate action, he said, so they can develop and promote conservative policy solutions.

"I hope [the resolution] shortens the period that we're in right now, where Republicans are coming to the table on climate science but are reticent to rally around true conservative policy on climate," Bozmoski said.

Democrats and environmentalists have also been increasingly aware of how the national security argument can help sway Republican colleagues.

Rep. Scott Peters (D-Calif.) said his time on the Armed Services Committee has taught him that the military can have a particular effect on the GOP when it comes to things like alternative energy and global warming.

"Where the generals and the admirals are advocates of energy innovation in a way that can't be dismissed, that won't be dismissed like those ideas might be if they were coming from academics or Al Gore," he said.

"There's a business case for alternative energy; there's a business case for dealing with climate effects on the military," said Peters.

House Republicans have tried to rein in the Pentagon's focus on warming. The chamber last year passed a defense spending bill with a rider to prevent the administration from using any funding on climate resilience programs.

Republicans who supported the provision argued that defense dollars were too scarce to be wasted on the Obama administration's climate agenda (E&E News PM, June 16, 2016).

But 24 GOP lawmakers opposed the legislation, including those who have been vocal about climate action. Democrats also shunned it.

"There's no need to be political about it, or lord it over them that they're agreeing that there's climate change, but I think clearly Republicans who are concerned about defense have become attuned to the need to deal with the effects of climate change," Peters said.

E&E News

<http://www.eenews.net/greenwire/2017/03/27/stories/1060052137>

Sierra Club report touts clean power as job generator

By Dylan Brown 3/27/17

The Sierra Club today responded to Trump administration plans to roll back fossil fuel regulations by saying that the "clean energy" industry employs more workers.

A new report from the green group found that solar, wind, energy efficiency and battery storage

employ 2.5 times more people than coal, oil and gas jobs, including power generation, mining and extraction, based on 2017 Department of Energy reports and state-by-state jobs numbers.

Only nine states still have more jobs in fossil fuels, according to the report. Florida, Ohio and Indiana have some of the largest margins of renewable energy exceeding fossil fuel jobs, it said.

The report pushed back against the administration's plans to roll back the Clean Power Plan, which requires power plants to reduce their carbon emissions. U.S. EPA Administrator Scott Pruitt said an executive order will come tomorrow (E&E Daily, March 27).

In West Virginia on Saturday, Vice President Mike Pence promised small business owners and supporters in Putnam County less regulation and more American energy under Trump.

"Right after we dropped our right hands on Jan. 20, it was official: The war on coal is over," Pence said. "And a new era of American energy has begun."

The former Indiana governor said Trump is behind hardworking people, "forgotten for too long."

"We're going to get Washington out of the way of energy producers and coal miners because energy means growth for America, and President Trump digs coal," he said to cheers.

But Sierra Club Executive Director Michael Brune said helping fossil fuels is wrongheaded because, as the report said, "energy jobs of both the present and the future are overwhelmingly in the clean energy sector."

"If we truly want to grow our economy, reduce air and water pollution, protect public health, and create huge numbers of new jobs for American workers," he said, "we must seize the opportunity that is right in front of our eyes: invest more in clean energy including solar, wind, storage and energy efficiency."

Brune said communities dependent on traditional fuels must be "put first at every stage" of the transition.

"We must ensure that the benefits experienced are equitably shared and that the jobs and opportunities it creates provide living wages, health care benefits and union representation for workers," he said.

Reuters

https://www.nytimes.com/reuters/2017/03/27/world/europe/27reuters-climatechange-agreement.html?_r=0

Threatened U.S. Pullout Might Help, Not Hobble, Global Climate Pact

3/27/17 10:51 AM

OSLO — A 2015 global pact for fighting climate change will benefit in some ways at least if U.S. President Donald Trump carries out a threat to pull out, backers say, in a shift from gloom about the fate of a deal that took two decades to negotiate.

The Paris Agreement requires consensus for all decisions, meaning the withdrawal of a recalcitrant United States would make it easier for emitters such as China and the European Union to design details of a trillion-dollar shift from fossil fuels.

Trump has called man-made climate change a hoax and made a so-far unfulfilled campaign pledge to "cancel" the agreement, saying he wants to promote the domestic fossil fuel industry.

In a step to undo environmental regulations introduced under former President Barack Obama, Trump will sign an order on Tuesday aimed at making it easier for companies to produce energy in the United States.

"There will be some advantages for other countries and there will also be extraordinary disadvantages," if the U.S. ends up quitting Paris, said Christiana Figueres, an architect of the agreement who was the U.N.'s climate chief in Paris.

"It's not a black and white scenario," she said.

She said the ideal outcome, both for the United States and other nations, was for Washington to stay and make deep cuts in greenhouse gas emissions. There were better investment prospects for renewable energies such as solar power than coal, she added.

The fear has long been that a pullout of the world's top economy would drain other nations' willingness to cut greenhouse gas emissions under an agreement ratified by nations as diverse as China, Saudi Arabia and African countries.

But there is an emerging rival view that Paris might be better off.

ACHILLES HEEL

"The Achilles heel of the Paris Agreement is that it's built on consensus," said Johan Rockstrom, director of the Stockholm Resilience Center at Stockholm University.

"It's very difficult to have a negative giant in the room" able to obstruct all decisions, he said, adding that he had swung in recent weeks to reckon that a U.S. pullout would be better overall from an earlier view that it would be a "big failure".

The Paris Agreement has few binding obligations. It lets all nations set their own goals for fighting climate change and has no penalties for non-compliance.

Governments have set a 2018 deadline to work out a rule book for the Paris Agreement, filling in

details, for instance, of how nations will report and monitor their curbs on emissions.

Maldives Environment Minister Thoriq Ibrahim - chair of the Alliance of Small Island States whose members fear they are at risk from rising sea levels - urged continued U.S. participation in Paris.

"The closer you look at it, the clearer it becomes that it (the Paris Agreement) also promotes important strategic, economic, and security benefits as well," he said.

Norwegian Prime Minister Erna Solberg also said it would be better for the United States to stay. "But I don't think that it's the end of the Paris Agreement if the United States decides to leave," she said.

Oliver Geden, of the German Institute for International and Security Affairs, disagreed. A U.S. withdrawal would badly undermine the Paris Agreement and any decisions would be largely irrelevant without the world's biggest economy, he said. "The momentum could fade away pretty soon," he predicted.

Still, almost 200 nations agreed after Trump's election in November that the world had an "urgent duty" to combat an "alarming and unprecedented" rate of global warming.

"The pace and scale of change already underway in the global economy is remarkable and irreversible," said Stephanie Pfeifer, head of the Institutional Investors Group on Climate Change, a forum with 18 trillion euros (\$20 trillion) in assets under management.

"Renewables have already overtaken coal as a global power source, electric vehicles are the growth segment of the auto industry and jobs are being created very rapidly in clean energy," she said.

The U.S. target under Paris, set by Obama, is to cut emissions by between 26 and 28 percent below 2005 levels by 2025 as part of global efforts to avert more downpours, droughts, heatwaves and floods.

Trump's pro-coal policies are likely to make U.S. emissions cuts less ambitious.

By staying in the Paris Agreement, Trump would also undermine a demand in its Article 4 that successive national climate plans have to be ever deeper cuts. A U.S. pullout would make it easier for backers to argue that the principle has not been violated.

The Paris Agreement sets an over-riding goal of limiting global warming to "well below" two degrees Celsius (3.6 Fahrenheit) above pre-industrial times. The United Nations says that current pledges are insufficient to meet that goal.

The Hill

<http://thehill.com/policy/energy-environment/325883-wealthy-trump-backers-attend-anti-climate->

Wealthy Trump backers attend anti-climate change event

By Olivia Beavers 3/27/17 10:15 AM

Republican mega-donors Robert Mercer and his daughter Rebekah Mercer attended a conference at the Heartland Institute last week, where speakers repeatedly bashed climate science and dismissed its research as being manipulated to fit scientists' theories, according to a Sunday Washington Post report.

The fact that the Mercers attended the two-day conference signals that the family plans to continue their financial support of the Heartland Institute.

It could also suggest the direction in which the wealthy donors hope to move the Trump administration.

President Trump is expected to release executive orders on climate change by Tuesday that will do away with efforts by the Obama administration to lower emissions from coal-burning power plants. Doing away with Obama's clean power plan could also make it difficult for the U.S. to meet its commitments under the Paris climate agreement.

At the conference, the Mercers, who largely supported Trump's campaign, listened to speakers who embraced the possibility that President Trump will implement deep cuts to the Environmental Protection Agency as well as scaling back other environmental regulations.

The Mercer family's foundation donated millions to the Heartland Institute over the years. Between 2008 and 2015, they gave the group over \$5 million, according to tax filings that the Washington Post obtained.

In recent years, however, the Mercers' financial contributions have dropped significantly from \$885,000 in 2014 to \$100,000 in 2015.

Rebekah Mercer declined the Washington Post's request for an interview. Heartland officials declined the Washington Post's request for comment on the Mercers' financial support, saying they do not discuss their donors.

The Mercer foundation also contributed \$500,000 to Berkeley Earth, a nonprofit research organization ran by Richard Muller, who used to be a climate change skeptic until 2012 when he said his research revealed that human beings are the cause for global warming.

"He has been very supportive of our work and never once did he indicate to us that he had a hope for outcomes in what we did," Muller said in an interview with the Washington Post on Friday.

Muller said Robert Mercer originally contacted him after giving a climate-related speech at Mercer's hedge fund, Renaissance Technologies. He defended Mercer saying they still receive funding from Mercer despite his findings, calling him "very open."

The Independent

<http://www.independent.co.uk/news/world/americas/us-politics/paris-agreement-scott-pruitt-climate-change-bad-deal-fossil-fuels-global-warming-a7651856.html>

Paris climate change agreement is a 'bad deal', says pro-fossil fuels chief Scott Pruitt

By Ian Johnston 3/27/17

The historic Paris Agreement on climate change – hailed by Barack Obama as perhaps “the moment that we finally decided to save our planet” – is “a bad deal”, the climate science-denying head of the US Environmental Protection Agency has said.

Scott Pruitt, who as Oklahoma's Attorney-General repeatedly sued the organisation he now leads, told US broadcaster ABC that China and India had “got away scot-free” under the terms of the deal and said the US had “penalised ourselves through lost jobs”.

Donald Trump has previously said he is considering withdrawing the US from the Paris Agreement because, in his opinion, “nobody really knows” if climate change is real.

However the Trump administration appears to be split over taking this momentous step with Defence Secretary James ‘Mad Dog’ Mattis among those who accept the established scientific view that climate change is indeed real.

The prospect of withdrawing from the Paris Agreement has cast a shadow over international talks about the issue.

The US produced about 5,170 megatons of carbon dioxide in 2015, the second highest of any country, behind China, which emitted about 10,600 megatons. However, China's population of more than 1.3 billion is about four times larger than the United States'.

The whole of the European Union, which has a population of about 743 million, was responsible for about 3,500 megatons.

However, despite the fact that China and India are 84th and 122nd on the International Monetary Fund's list of countries ranked by gross domestic product per person, Mr Pruitt said he felt the US, which is 11th, had been hard done by.

“You know, what was wrong with Paris was not just that it was, you know, failed to be treated as a treaty, but China and India, the largest producers of carbon dioxide internationally, got away scot-free,” he said.

“They didn’t have to take steps until 2030. So we’ve penalised ourselves through lost jobs while China and India didn’t take steps to address the issue internationally.

“So Paris was just a bad deal, in my estimation.”

His complaints about China’s and India’s carbon dioxide emissions are perhaps a little strange, given he only recently denied the gas was a primary cause of global warming. Scientists have known about carbon’s warming effect since the mid-1800s and it can be demonstrated by a simple experiment.

The Paris Agreement was given that name partly to avoid being classed as an international treaty because, under US law, a treaty cannot be approved by the President alone and must be ratified by Congress.

The Obama administration decided the Republican-controlled Congress would not approve the deal so persuaded the rest of the world to call it an “agreement”, which the President could sign up to on his own authority.

However Mr Pruitt gave a hint that the Trump administration might decide against withdrawing from Paris, for the moment at least.

Immediately after describing the Paris Agreement as a “bad deal”, he added: “But we’re trying to focus on getting things right here domestically and making sure we operate within the framework of the Clean Air Act.”

Mr Pruitt also said Mr Trump would issue the “Energy Independence Executive Order”, which would make sure “we have a pro-growth and pro-environment approach to how we do regulation in this country”.

He complained some people seemed to think that if “you’re pro-growth, pro-jobs, you’re anti-environment”.

“We’ve made tremendous progress on our environment and we can be both pro-jobs and pro-environment, and the executive order’s going to address the past administration’s effort to kill jobs across this country through the Clean Power Plan,” Mr Pruitt added.

The Clean Power Plan was the mainstay of attempts by the Obama administration to shift the US economy from one largely run on fossil fuels to renewable energy.

Mr Pruitt’s assessment of the Paris Agreement is markedly different from Mr Obama’s.

In September last year, as the US and China jointly ratified the deal, the then US President said: “This is not a fight that any one country no matter how powerful can take alone.

“Some day we may see this as the moment that we finally decided to save our planet.”

Huffington Post

http://www.huffingtonpost.com/entry/scott-pruitt-paris-climate-deal_us_58d8a552e4b03692bea70846

EPA Chief: Paris Climate Accord ‘Just A Bad Deal’

By Nick Visser 3/27/17, 8:04AM

The administrator of the Environmental Protection Agency reiterated his staunch opposition to the landmark Paris climate deal on Sunday and promised to begin work to roll back a hallmark environmental initiative of the Obama administration.

In an interview with ABC’s George Stephanopoulos, Scott Pruitt blasted the Paris climate accord — an international agreement to cut greenhouse gas emissions — calling the effort “a bad deal.”

“You know, what was wrong with Paris was not just that it was, you know, failed to be treated as a treaty, but China and India, the largest producers of CO2 internationally, got away scot-free,” Pruitt said during the segment on ABC’s “This Week.”

“We’ve penalized ourselves through lost jobs while China and India didn’t take steps to address the issue internationally. So Paris was just a bad deal, in my estimation,” he added.

China is the largest emitter of greenhouse gases on the planet, followed by the United States, the European Union as a bloc and then India.

Pruitt also said President Donald Trump would begin work to reverse former President Barack Obama’s Clean Power Plan, which regulates emissions from coal-fired power plants, by signing an executive order to do so on Tuesday.

“With respect to this executive order that’s coming out on Tuesday, this is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this

country,” Pruitt said.

Nearly 200 nations have signed on to the Paris Agreement, which aims to keep the world from warming more than 2 degrees Celsius above pre-industrial levels. Scientists say we must not surpass that range if we want to avoid the worst effects of climate change. Many countries, including China and India, have submitted sweeping plans to curb emissions within the next few decades. Obama had planned to slash U.S. emissions by 26 to 28 percent by 2025.

Those plans, it seems, are now in jeopardy.

Pruitt drew near universal condemnation from the scientific community earlier this month when he said, once again, that he did not believe carbon dioxide is the cause of global warming.

“I think that measuring with precision human activity on the climate is something very challenging to do and there’s tremendous disagreement about the degree of impact, so no, I would not agree that it’s a primary contributor to the global warming that we see,” he told CNBC. “We need to continue the debate and continue the review and the analysis.”

The United Nations Intergovernmental Panel on Climate Change and nearly every scientific body on the planet disagrees.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=107930968&vname=dennotallissues&wsn=49959800

Pruitt Help Sought on New EPA Overhaul Bill: Lawmaker

By Brian Dabbs 3/27/17

A sponsor of recent legislation to terminate the EPA now is reaching out to Administrator Scott Pruitt to help craft new legislation to overhaul the agency, the House member told Bloomberg BNA March 24.

The legislation would reduce the scope of Environmental Protection Agency headquarters in Washington, and devolve most enforcement authority to states, Rep. Barry Loudermilk (R-Ga.) said.

Loudermilk joined with other House Republicans to introduce the termination legislation (H.R. 861) in early February. That bill sparked outcry from environmental groups and failed to gain momentum despite picking up some additional co-sponsors in early March.

Seven House Republicans currently back the bill.

That legislation aimed to launch a conversation on the agency, rather than actually abolish it, Loudermilk reiterated. Abolishing the EPA is likely politically unfeasible even though Republicans, led by President Donald Trump, regularly lambaste agency overreach. In the off-chance lawmakers and the Oval Office scrap the EPA, other agencies would have to implement regulations to comply with environmental statutes.

A new bill, however, will keep the EPA intact while transferring environmental authority from “ivory tower” headquarters to states, he told Bloomberg BNA.

“A smaller agency that works more directly with state agencies and gets its marching orders from Congress would be much more effective,” Loudermilk said. “We’re reaching out to Mr. Pruitt right now to see if his staff is interested in helping us with that.”

The EPA didn’t immediately respond to a Bloomberg BNA request for comment.

Regional EPA offices would continue to play a critical role for the agency in the new legislation, according to Loudermilk. “That would be my approach because they would be the front-end element that works closest with state [environmental agencies],” he said.

The Office of Management and Budget recently recommended eliminating two EPA regional offices. Those offices are extensions of EPA Washington, D.C., headquarters.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=107930983&vname=dennotallissues&wsn=49959250

California Deepens Rift With Trump, Keeps Cleaner-Car Rules

By John Lippert and Nicole Piper 3/27/17

California’s environmental regulator broke with the Trump administration by maintaining its cleaner-car standards through 2025 and launching a formal effort to write even tougher rules for the following five years.

The California Air Resources Board voted unanimously to maintain the state's 2025 limits on tailpipe greenhouse gas emissions and begin drafting stricter goals for zero-emission vehicle sales through 2030. Targets for the share of sales that need to be powered by battery, fuel cell or plug-in hybrid powertrains are set for 15 percent by 2025, from about 3 percent today.

CARB's vote to continue down the path of stricter emissions rules could lead to a showdown with President Donald Trump, who described environmental regulations in the U.S. as "out of control" when meeting the chief executive officers of General Motors Co., Ford Motor Co. and Fiat Chrysler Automobiles NV in January. The state regulator's chairman chastised the industry for seeking the review of federal standards that Trump agreed last week to reopen.

"What were you thinking when you threw yourselves on the mercy of the Trump administration to solve your problems?" Chairman Mary Nichols said during a hearing March 24. "What did you mean when you said you don't want to question the overall thrust of the standards? Why do another review if the current program is basically OK?"

Pruitt's Review

Environmental Protection Agency Administrator Scott Pruitt has said he will review the state's legal authority to enforce its own limits on pollution and carbon dioxide emissions.

Myron Ebell, the former head of Trump's EPA transition team, told Bloomberg News last week that Trump's Transportation Department may determine only the National Highway Traffic Safety Administration can regulate fuel economy and exclude the EPA and California from such rule-making.

"We tried very hard not to provoke or defy the national government and we've had a good past with the EPA," Nichols told reporters following the hearing March 24. "I don't expect there to be a war on California. I was obviously disappointed when I heard Pruitt commenting that he might reconsider the California waiver."

The Alliance of Automobile Manufacturers said ahead of the CARB meeting that electric vehicles' share of overall demand for new autos has been roughly flat for years. The trade group representing automakers including GM, Ford and Fiat Chrysler asked the regulator to wait at least two years before considering the higher zero-emission vehicle targets for 2030.

The alliance hasn't asked Trump to revoke the state's right to set its own emissions standards, Steven Douglas, the group's senior director of environmental affairs, said during the CARB hearing in Riverside, Calif.

California Divide

Trump last week reinstated a review of national greenhouse gas limits that run through 2025, which California had agreed in 2012 to accept as interchangeable with its own. Pippin Madhar, a CARB engineer, said the state may have to return to insisting on compliance with its own

standards if the Trump administration dials back those at the national level.

As a result of Trump's decision, the EPA and NHTSA will spend another year evaluating the federal standards that call for cars to average more than 50 miles per gallon by 2025.

CARB defended its cleaner-car targets March 24 as a necessary component of its plan to cut greenhouse gas emissions to 40 percent below 1990 levels by 2030.

Matching States

Nine states including New York and New Jersey have pledged to adopt the Golden State's targets. Zero-emission vehicles were 0.74 percent of sales in those nine states last year, according to IHS Markit. Automakers face penalties if they don't meet the zero-emissions sales goals.

A provision that allows automakers to fulfill their obligations in New York and other matching states by selling cars in California is set to expire in October, putting pressure on automakers to increase zero-emission vehicle sales.

Electric-car sales lag outside California because automakers barely advertise them there, and some don't even sell certain models, according to Christine Kirby, acting assistant commissioner of the Massachusetts Department of Environmental Protection.

Most carmakers "have not tried to build the zero-emission vehicle market in the Northeast to the extent that is necessary," she said.

E&E News

<http://www.eenews.net/eedaily/2017/03/27/stories/1060052094>

Panel invites feuding scientists

By Hannah Hess 3/27/17

The House Science, Space and Technology Committee will hold a hearing this week to challenge consensus climate science, which Chairman Lamar Smith (R-Texas) has called politicized and exaggerated.

It is set to feature some of the field's most vocal critics and one of climate science's most controversial defenders: Michael Mann, a professor of atmospheric science at Pennsylvania State University known for his iconic "hockey stick" analysis of global warming trends.

"Get your popcorn ready," tweeted Judith Curry, another one of the four witnesses set to testify.

Curry retired this year from her tenured position as a professor at the School of Earth and

Atmospheric Sciences at the Georgia Institute of Technology, citing the "craziness" of the field (*Climatewire*, Jan. 4).

Curry has panned scientists such as Mann as "climate alarmists." Her blog recently sparked renewed fighting over federal temperature data with a post by a retired federal scientist related to the National Oceanic and Atmospheric Administration's finding that global warming never took a "pause" in the 2000s (*E&E Daily*, Feb. 8).

Republicans will likely ask Curry and John Christy, a climate scientist at the University of Alabama, Huntsville, to talk about research and analysis that they say casts doubt on climate forecast models.

Roger Pielke Jr. from the University of Colorado, Boulder, another witness invited by the GOP, is well-known for questioning the link between climate change and extreme weather costs.

In a 2014 blog post addressing the damage caused by extreme storms like Superstorm Sandy, Pielke said it was wrong to link larger losses to climate change, arguing that they are instead tied to greater world wealth. Pielke's piece was criticized by prominent climate scientists in what he alleged was a targeted attack (*Climatewire*, Oct. 28, 2016).

Such public feuding has many expecting fireworks.

Smith last week read the names of the witnesses while on stage at a conference that brought together scholars who have broken with the vast majority of their colleagues on human-caused global warming. The crowd cheered Curry, Christy and Pielke, then booed Mann.

Smith said that he hoped to make a distinction between "climate study" and "climate science." The panel will explore assumptions, policymaking and the scientific method, which Smith said is "repeatedly ignored by the so-called self-professed climate scientists" (*E&E News PM*, March 23).

The hearing comes as the White House is poised to issue an order on "energy independence" that will begin the process of unraveling Obama-era rules aimed at curbing greenhouse gas emissions (*see related story*).

Schedule: The hearing is Wednesday, March 29, at 10 a.m. in 2318 Rayburn.

Witnesses: Judith Curry, president of the Climate Forecast Applications Network; John Christy, professor of atmospheric science and director of the Earth System Science Center at the University of Alabama, Huntsville; Michael Mann, professor of atmospheric science at Pennsylvania State University; and Roger Pielke Jr., professor of the Environmental Studies Department at the University of Colorado, Boulder.

E&E News

<http://www.eenews.net/eedaily/2017/03/27/stories/1060052098>

House to vote on 'secret science' bill

By Sean Reilly 3/27/17

Only weeks after winning approval from the House Science, Space and Technology Committee, a bill that would layer new requirements on U.S. EPA's handling of scientific research is headed to a floor vote this week.

The House Rules Committee is scheduled to meet late this afternoon to set the terms of debate for H.R. 1430, sponsored by Rep. Lamar Smith (R-Texas), the science panel's chairman. The House will then take up the bill later in the week, according to a schedule from Majority Leader Kevin McCarthy (R-Calif.).

The measure would bar EPA from proposing or putting new regulations in place based on science that is not "transparent or reproducible."

Along those lines, EPA would have to make all underlying research data available online to allow for independent analysis. The bill, a slightly reworked version of what was previously dubbed the "Secret Science Reform Act," has now been rechristened the "Honest and Open New EPA Science Treatment (HONEST) Act."

"Since American taxpayers foot the bill for EPA regulations, they deserve to have access to the science that supposedly justifies these regulations," Smith said at the March 9 markup, not long before the bill passed on a 17-12 party-line vote.

But Democrats and critics in the scientific community view the measure as a gift to industry, crafted with a goal of both offering more footholds for legal challenges to new regulations and undercutting EPA's ability to rely on relevant scientific research since key studies sometimes draw on large data sets that are not easily reproducible.

In response to other criticisms, Smith has exempted personally identifiable information and trade secrets from the web-posting requirements.

But at the markup, ranking member Eddie Bernice Johnson (D-Texas) said the bill would ostensibly allow outside researchers to get access to sensitive data by signing a confidentiality agreement with EPA. Because EPA is not authorized to sign off on such agreements, Johnson said, the legislation would still hurt the agency's ability to use "the best science."

Another factor is the legislation's price tag, particularly as the Trump administration pushes for steep cuts to EPA's budget next year.

As of Friday, the Congressional Budget Office had not released a score for H.R. 1430. In 2015, however, CBO projected that implementation of a similar measure would cost EPA \$250 million annually over several years for database construction and other steps needed to meet the bill's requirements.

In its forecast, the budget office concluded that the web-posting requirements would apply to a large body of studies underlying "covered actions," including risk and hazard assessments, and regulatory impact statements.

Smith's bill would allow the agency to spend \$1 million per year, with no new spending authorized to cover that amount.

At the March 9 markup, the Science Committee also approved a related measure, H.R. 1431, introduced by Vice Chairman Frank Lucas (R-Okla.) to revamp membership requirements on EPA's Science Advisory Board. As of late Friday, that bill was not on the Rules Committee's agenda.

Schedule: The meeting is Monday, March 27, at 5 p.m. in H-313 Capitol.

E&E News

<http://www.eenews.net/climatewire/2017/03/27/stories/1060052108>

Could Trump's EPA reopen the VW settlement?

By Camille von Kaenel and Debra Kahn 3/27/17

States are preparing for a multibillion-dollar influx from a Volkswagen settlement despite new worries that U.S. EPA could rethink the deal.

The settlement, approved by a federal judge in October, requires Volkswagen to invest \$2 billion in electric vehicle charging and provide \$2.7 billion to states to cut nitrogen oxides (NOx) pollution from old diesel engines. The money is aimed at countering the environmental harm caused by Volkswagen's cheating on emissions standards.

The settlement has faced criticism from conservative groups and electric vehicle charging company ChargePoint Inc., while congressional and California lawmakers have raised concerns about the special \$2 billion investment. Reopening it would be difficult, requiring court approval and new negotiations with Volkswagen. But observers say an administration intent on undoing President Trump's predecessor's climate initiatives could seek the changes.

"Clearly, this administration is thinking about efficiencies. ... They're not terribly interested in implementing this or committing resources, and I also get the sense that neither the DOJ [Department of Justice] nor the EPA has a management structure in place to do anything with it. It's a giant question mark," said William Yeatman, a senior fellow at the Competitive Enterprise Institute.

In January, Yeatman organized a letter from conservative groups urging the Trump administration to scrap the \$2 billion required investment in electric vehicles, calling it a leftover from former President Obama's agenda to boost zero-emission vehicles that goes around Congress.

He said political staffers at EPA told him they were interested in his proposal and thinking of reviewing the fund, but that they were still getting settled at the agency. EPA did not respond to a request for comment.

The House Judiciary Committee picked up on the conservative groups' criticisms in a January [letter](#) to the Department of Justice asking for more information about the department's settlements that "provide for or direct payment to non-victim third parties." The lawmakers write that "DOJ used the [Volkswagen] settlement to fund the current Administration's electric vehicle initiative after Congress has twice refused to pay for it."

The Obama-era EPA defended the special fund as a way to correct the environmental harm caused by Volkswagen's polluting cars in a House hearing last year to both Democratic and Republican critics ([E&E Daily](#), Dec. 7, 2016).

Others fear that the fund, if left unchanged, could inadvertently give Volkswagen a leg up on its competition. ChargePoint has said Volkswagen could "drown" out other startups with a monopoly and asked for changes in how the investment is managed. Other EV charging companies, like EVgo, have cheered the new capital and said it would expand the industry.

"VW's going to be able to come in and invest in our state in a way that gives them equal footing?" California state Sen. Toni Atkins (D) asked at an oversight hearing last week. "There's just something that doesn't feel right about that. ... If we are dissatisfied, I guess we have the opportunity to go back to court."

At the same hearing, former Michigan Gov. Jennifer Granholm (D), now a senior research fellow at the University of California, Berkeley, also urged the state to take a tougher line with Volkswagen. "It appears that VW's investment will serve to grow its bottom line at the expense of others," she said. "The criminal wrongdoer should not be permitted to profit from its wrongdoing."

Environmental advocates worry that a reopening of the settlement could lead to a weaker deal. Max Baumhefner, an attorney with the Natural Resources Defense Council, said at last week's legislative hearing that he was "not at all confident that California would fare better with [EPA Administrator Scott] Pruitt as a counterparty to that negotiation."

'We're not Blanche Dubois here'

Meanwhile, the settlement is going forward, with states, cities, utilities and clean diesel groups preparing to receive the cash.

Volkswagen has submitted plans for how it plans to spend the money on electric vehicle charging infrastructure over the next 10 years to California's Air Resources Board (ARB) and EPA. EPA has not made the national plan public.

California, which has a separate settlement with Volkswagen, has sought public feedback on the automaker's [plan](#) to spend \$800 million in the state. Public comment is due April 10, and ARB intends to make a decision on the plan by late April.

In California, Electrify America envisions spending the first \$200 million on 400 EV charging stations throughout the state and brand-neutral advertising, as well as a \$44 million investment in charging stations, car-sharing and EV taxis concentrated in one "green city," likely to be Sacramento.

State regulators have raised concerns about whether it should boost hydrogen vehicles as well

as electric charging infrastructure, as well as whether it will spend enough in disadvantaged communities.

At an ARB hearing last week, representatives from Toyota and Global Automakers said that the plan focuses too heavily on electric vehicles at the expense of hydrogen. Regulators echoed automakers' concerns.

"We're not Blanche Dubois here; we're not relying on the kindness of strangers. We're here as a party to a settlement for something that was done that was terrible," said ARB board member Hector De La Torre. "I will expect to see in the fairly near future something that incorporates hydrogen infrastructure into this plan."

An 'alternative' to federal funds?

Other officials asked for more investment in low-income areas, particularly in the state's Central Valley region. "When I think of the VW issue, I think of sending you to places you normally wouldn't go," said board member and former state Sen. Dean Florez (D), "places where you might want to think about interconnecting some communities that might be ignored."

Local officials, though, were more sanguine about the plan. Los Angeles lobbied heavily to be chosen as the second "green city" after Sacramento. "The VW diesel cars probably contributed a lot to the NOx problem that we suffer in the South Coast district," said board member Judy Mitchell, who represents the Los Angeles region. "I'll give a shoutout to LA as the next green city you choose."

Electrify America Chief Operating Officer Brendan Jones said he would take their concerns back to Volkswagen. "There's some things, frankly, we will not be able to do in the plan, and we won't be able to please everybody," he said.

At the national level, EPA has moved on with the less controversial \$2.7 billion "mitigation trust fund" for reducing pollution from old diesel engines under Pruitt. It chose and got court approval on March 15 to have Wilmington Trust oversee the pot of money, which will be distributed to states based on a set timeline. A second settlement with Volkswagen still waiting for approval would provide an additional \$225 million.

State air and environment agencies are reaching out to the public for project ideas to put the dollars to work.

Virginia and Connecticut have already prepared in-depth plans. Rob Klee, commissioner of the Connecticut Department of Energy and Environmental Protection, said the state is looking to make the most of the influx of cash, pointing at suggestions to a public website.

The states can spend up to 15 percent of their allocated funds on electric vehicle charging infrastructure, and many of the states with strict sales targets for the clean vehicles, including Washington and Virginia, have said they will be making the most of that. Ohio has prepared a map of areas with historical air quality problems related to diesel emissions to focus funds.

"Some are more along than others, but this is a lot of money, and I'm pretty confident they'll be ready," said Nancy Kruger, deputy director of the National Association of Clean Air Agencies.

The settlement is moving forward at a time when the White House has proposed massive budget cuts for clean air grants to states, sometimes citing the incoming Volkswagen cash as an alternative source of funding.

"They are two completely different things," Kruger said. "States have core programs they have to do. You can't monitor with this money, you can't permit with this money, you can't enforce this money, you can't do toxic air pollution, you can't do environmental justice projects."

E&E News

<http://www.eenews.net/climatewire/2017/03/27/stories/1060052107>

Calif. Won't budge on clean cars rules, sets up clash with EPA

By Anne C Mulkern 3/27/17

California will charge ahead with its plan to mandate more clean cars, as the nation's most populous state again positions itself as a key challenger to the Trump administration.

The California Air Resources Board at a Friday hearing approved its midterm review of car mandates passed in 2012, saying the standards remain appropriate. The vote means the rules stay in place through 2025.

In order to sell in California, automakers must produce an increasing percentage of zero-emissions vehicles, or ZEVs, and cut tailpipe greenhouse gas and particulate emissions.

State officials at the meeting asserted California's right to set its standards. They lambasted automaker and Trump administration efforts to reopen federal rules on vehicle mileage and emissions.

Agency Chairwoman Mary Nichols rebuked a decision by auto trade groups to seek President Trump's help re-examining those regulations, which the Obama administration finalized late last year.

"What were you thinking?" Nichols said to trade group representatives at the hearing, adding that she also was speaking to their counterparts in Washington, D.C. "What were you thinking when you threw yourselves upon the mercy of the Trump administration to try to solve your problems? It just does not make sense."

Existing federal mileage and pollution standards became law in 2012 after a settlement between the Obama administration, California and automakers. The rules largely were modeled on California policies. Car manufacturers at the time negotiated in the midterm review.

Obama's EPA late last year completed that review and finalized standards. Those increase required gas mileage to 50.8 mpg for cars and light-duty trucks by model year 2025.

Automakers argue the midterm look was intended to end in 2018, using data available at that

point. Trump's EPA and the Department of Transportation earlier this month said they'll reconsider the Obama administration decision. If they soften requirements, California's rules would be the toughest in the country.

California has a waiver under the Clean Air Act that allows it to set rules more stringent than the federal government. Twelve states and the District of Columbia follow California's mandates, rather than EPA's. Combined, they represent about 40 percent of vehicle sales.

Asked about Nichols' comments, trade groups the Alliance of Automobile Manufacturers and Global Automakers said they were focused on "one national program," the goal of having the same rules for the federal government and all states. They've also said meeting the current standards will be hard because consumers prefer trucks and SUVs over ZEVs and high-mpg cars.

"The record number of high MPG and alternative powertrains our Members have in showrooms today are not selling at rates required to meet these targets," said Mitch Bainwol, president and CEO of Alliance of Automobile Manufacturers, in a letter last week to California Gov. Jerry Brown (D). "In this low gas price environment, consumers are simply not choosing the vehicles required to support the existing schedule."

The letter came after Brown had called Trump's decision to reopen the EPA standards "an unconscionable gift to polluters."

Other states praise rule

The five-hour hearing on California's midterm review featured a parade of supporters. Representatives from Connecticut and Massachusetts — states that follow California's rule — flew in to attend and praised the policy. Both said it was needed to meet their greenhouse gas reduction goals.

Environmental, health and community groups also voiced support.

"The ZEV program is a key driver for expanding markets in California and other states," said Irene Gutierrez, attorney at the Natural Resources Defense Council. "The ZEV program is working. It creates a market for plug-in electric vehicles and drives costs down and makes vehicles more accessible."

Auto trade groups supported elements of California's rules, while arguing for one national program.

"We agree that we need to continue to reduce greenhouse gas emissions and improve fuel economy," said John Bozzella, president and CEO of trade group Global Automakers, which represents Honda, Hyundai, Isuzu, Kia, Toyota and others. "We agree that developing advanced technologies and consumer acceptance and demand for those technologies are central to the achievement of our goals."

However, he added that there was a problem with having more than one set of regulations on cars "that are inconsistent and require different compliance paths with no added benefit to consumers or the environment."

"When EPA prematurely ended its part of the midterm review," Bozzella said, "we lost an important part of the discussion: making sure we ended up with a fully aligned national program that balances innovation, compliance, and consumer needs and wants."

Steve Douglas, senior director with the Alliance of Automobile Manufacturers, which represents BMW, Fiat Chrysler, Ford, General Motors, Mazda and others, said his group recognized "that California has a waiver for greenhouse gas and zero-emissions vehicles and low-emission vehicle programs."

"We have not requested or advocated for the [Trump] administration to overturn those waivers," he said.

At the federal level, he said, the trade group was seeking to return to a midterm review timeline laid out in 2012.

"So last week's activity brought us back to where we would have otherwise been, but for EPA's action at the end of last year, beginning of this year, that we believe was premature," Douglas said.

Federal review not early — Nichols

California officials and some green advocates at the hearing rejected that the Obama midterm review was premature.

The midterm review "never was intended to have to go out to the full possible length," Nichols said. "It was not something that was even contemplated at the time, that it must extend further. It was supposed to be done when it was ready to be done."

"So the recent cries of process foul about the EPA decision ... struck us as strange, to put it mildly," she added.

Nichols also jumped on Douglas' statement about the Golden State's Clean Air Act waiver.

"We hear today that you didn't really mean to question the validity of the California waiver," Nichols said. "Well, our newly confirmed head of the Environmental Protection Agency said he was prepared to do just that."

EPA Administrator Scott Pruitt has refused to promise that he will affirm state waivers.

Several ARB members challenged auto trade group statements that consumers aren't as interested in ZEVs. Board member John Balmes said he sees "ad after ad" for Chevrolet Silverado, Ford F-150 and RAM trucks.

"The industry talks about there's no market for these vehicles — well, you create market," Balmes said. "You put millions of dollars into advertising. You say the public doesn't want to buy these vehicles, but it doesn't try to sell it to them."

ARB member Hector de la Torre said the tension between California and the Trump administration meant automakers were caught, in a sense, "between two bickering parents."

He then warned that "if a divorce is going to happen at some point, we are going to litigate that divorce strongly."

He defended California's right to have its standards.

"There were three parties at that table back in 2012 when the settlement on the federal standard was reached," de la Torre said. "We were one of those parties. And we are going to continue exercising our authority under that deal, until we decide that deal is no longer valid."

The Hill

<http://thehill.com/policy/energy-environment/325693-week-ahead-committee-to-probe-climate-science>

Week ahead: Committee to probe climate science

By Devin Henry 3/27/17 6:00 AM

The House Science Committee has scheduled a provocative hearing next week to challenge the science behind climate change.

Rep. Lamar Smith's (R-Texas) panel will meet on Wednesday to consider "assumptions, policy implications, and the scientific method" related to climate change.

The meeting will give Smith, who doubts the broad scientific consensus that greenhouse gas emissions have caused climate change, a large platform from which to try making his point.

He's invited several witnesses to help question climate change, including two scientists who made their names opposing the central tenants of manmade climate change, and another who has said its impact on the Earth is overstated.

Democrats are expected to strongly oppose Republicans' assumptions. and will certainly use the hearing to note the exceeding conclusion among climate scientists that human activity has created, and is exacerbating, a warming trend around the globe.

They have invited Michael Mann, the climate scientist behind the famous "hockey stick" graph showing a sharp increase in the planet's average temperature, to rebuff Republicans and climate skeptics at the hearing.

The meeting comes as the Trump administration expands its assault on the climate change work advanced by former President Obama.

That may culminate next week with the release of a long-expected -- but often delayed -- executive order aimed at administrative climate work instituted during the previous administration.

As soon as next week, Trump could issue an order undoing several key Obama-era climate rules, including the Clean Power Plan regulation on power sector carbon emissions and a moratorium on public lands coal leasing.

Sources told The Hill last week that the order could be broader than that, touching on issues like methane regulations and government climate change metrics. The White House is expected to frame the order as a step to help the fossil fuel industry: during his campaign, Trump said he would clobber Obama's climate work in order to boost fossil fuel sectors like coal, oil and natural gas.

Environmentalists will oppose the order, whenever it comes, but several experts said this week not to expect an immediate challenge to Trump. Greens instead will likely take their time building a record against the decision, with an eye on challenging it through lawsuits later on.

But climate court watchers, might see some action after all. Trump on Friday issued a permit advancing the Keystone XL pipeline, a decision that inflamed environmentalists who opposed the project for years under President Obama.

Groups are expected to file suit against the permit decision, arguing the pipeline needs to go through a fresh environmental review before it can move forward.

The Sierra Club on Friday said it "expects to challenge [the decision] in court in the coming days," though they didn't give a formal timetable for that action.

In other pipeline news, developers of the Dakota Access project are expected to announce that oil has begun running through the pipeline. In a court filing last Monday, the company said oil could be introduced soon; they will file another status report with a federal judge in the coming week.

Washington Post

https://www.washingtonpost.com/politics/the-merciers-trump-mega-donors-back-group-that-casts-doubt-on-climate-science/2017/03/26/dc1fde86-109b-11e7-9b0d-d27c98455440_story.html?utm_term=.f43b84af9419

The Mercers, Trump mega-donors, back group that casts doubt on climate science

By Matea Gold and Chris Mooney 3/27/17, 6:00AM

The atmosphere was buoyant at a conference held by the conservative Heartland Institute last week at a downtown Washington hotel, where speakers denounced climate science as rigged and jubilantly touted deep cuts President Trump is seeking to make to the Environmental Protection Agency.

Front and center during the two-day gathering were New York hedge fund executive Robert Mercer and his daughter Rebekah Mercer, Republican mega-donors who with their former political adviser Stephen K. Bannon helped finance an alternative media ecosystem that amplified Trump's populist themes during last year's campaign.

The Mercers' attendance at the two-day Heartland conference offered a telling sign of the low-profile family's priorities: With Trump in office, the influential financiers appear intent on putting muscle behind the fight to roll back environmental regulations, a central focus of the new administration.

On Thursday, the father and daughter joined Heartland Institute President Joseph Bast at his table for the keynote luncheon speech, held in a ballroom of the Grand Hyatt Hotel. They listened intently as Patrick J. Michaels, director of the Cato Institute's Center for the Study of Science, argued that the Obama administration erred in finding that greenhouse gas emissions endanger public health.

The Mercers' presence indicates that the wealthy family is continuing to support the work of the Heartland Institute — a group that embraces views that have long been considered outlier positions by the scientific community, but that are ascendant in Trump's Washington.

"Many of the people who are now prominent in the Trump administration attended our conferences, even spoke at our conferences, read our publications," Bast said in an interview. "I think we're seeing the fruit of a decade of hard work on this issue."

Half a dozen Trump transition officials and administration advisers attended the gathering, including Myron Ebell, director of energy and global warming policy at the Competitive Enterprise Institute, who headed Trump's EPA transition team.

Ebell, who has regularly challenged various aspects of the scientific consensus that humans are driving the warming of the planet, received Heartland's "Speaks Truth to Power Award."

During a session Friday titled “Resetting Climate Policy” that the Mercers attended, Ebell thanked “the people in this room and people like you around the country.”

“It’s the people who have worked persistently against global warming alarmism that made this election result possible,” he added.

But exactly where the Mercers stand on climate change — and the scope of their environmental agenda — remains a mystery.

When approached by a Washington Post reporter at the event, Rebekah Mercer declined to be interviewed.

The Heartland Institute has been one of the biggest beneficiaries of the Mercer family’s foundation, which gave the group more than \$5 million between 2008 and 2015, according to tax filings. But the size of the Mercers’ contributions dropped sharply in recent years, from \$885,000 in 2014 to \$100,000 in 2015.

Heartland officials declined to comment on the Mercers’ support, saying they do not discuss their donors.

During the same two-year period, the Mercer foundation contributed \$500,000 to Berkeley Earth, a nonprofit research organization whose founder, Richard Muller, is a physicist and onetime climate change skeptic who declared in 2012 that his research shows that humans are indeed driving global warming.

Berkeley Earth set out in 2010 to reanalyze the highly influential surface temperature data kept by scientific institutions such as NASA and the National Oceanic and Atmospheric Administration — data that document considerable global warming and have come under fire from climate change doubters. The ultimate Berkeley Earth analysis, however, largely vindicated the original temperature records, reporting that concerns raised by doubters “did not unduly bias the record.”

In an interview Friday, Muller said that Robert Mercer contacted him after Muller gave a speech about big data and climate science at Renaissance Technologies, Mercer's hedge fund.

"He has been very supportive of our work and never once did he indicate to us that he had a hope for outcomes in what we did," Muller said. He added that Berkeley Earth continues to receive funding from Mercer, whom he described as "very open."

The Mercers appeared deeply immersed in the arguments showcased at the Heartland conference. They attended half a dozen panels over two days, including one billed as a discussion of how climate science shows that "nature, not human activity, is the chief driver of changes to the earth's climate." Before Thursday's keynote speech, Rebekah Mercer, wearing her signature diamond-studded glasses, chatted animatedly with Bast, while her famously taciturn father sat next to her, quietly eating his salad.

The Heartland Institute has been challenging various aspects of the scientific consensus on human causation of global warming for years through gatherings such as last week's International Conference on Climate Change . The group also helps organize the Nongovernmental International Panel on Climate Change, which offers a contrary view to the leading authority on climate change, the United Nations Intergovernmental Panel on Climate Change.

In 2012, Heartland paid for a Chicago billboard that read, "I still believe in Global Warming. Do you?" alongside a picture of Ted Kaczynski, the Unabomber, triggering major backlash and criticism.

Bast, the group's president, said at the time that the billboard was intended "to be an experiment," noting that it got people's attention.

Kenneth Kimmell, president of the Union of Concerned Scientists, said Heartland "has a long history of promoting 'alternative facts' about climate change as well as crank climate denialist theories that are far out of the mainstream scientific consensus."

Kimmell said the fact that key Trump administration officials are embracing some of their theories is alarming.

“It is distressing to see us going backwards on basic climate science,” he said.

In a statement, Bast called the union “one of the environmental advocacy groups most responsible for politicizing climate science. I’m not at all surprised that they disapprove of an open objective debate over the causes and consequences of climate change.”

Several organizations that have received funding from the Mercer foundation helped sponsor the Heartland conference, including the Media Research Center, the Heritage Foundation and the Center for the Defense of Free Enterprise, a small group based in Bellevue, Wash., whose vice president once vowed to “destroy environmentalists by taking their money and their members.”

The gathering drew about 300 people to the Grand Hyatt, whose corridors buzzed with chatter about carbon levels and “fake” climate science. A man marketing the film “Climate Hustle” bore a sign that read, “Hello, My Name is Al Gore.”

The overarching theme of the two-day gathering: that fossil fuels and elevated levels of carbon dioxide actually benefit human health, the environment and regional stability.

In a session titled “Fossil Fuels and World Peace,” speakers said that fossil fuels and climate change could help boost food production. Craig Idso, chairman of the Center for the Study of Carbon Dioxide and Global Change, said that without fossil fuels, the world risks “chaos and mass starvation.”

Climate research, however, suggests many possible risks to crops, such as wheat and corn, as a result of warming and associated consequences such as drought in some regions.

Idso did not deny climate change, but embraced it. “It will be next to impossible to meet the

challenge of feeding Earth's population without a rise in the Earth's temperature," he said. "CO2 is not a pollutant. It is the very elixir of life."

Throughout the conference, speakers repeatedly accused climate change scientists of manipulating their studies to produce results supporting their theories.

Rep. Lamar Smith (R-Tex.), chairman of the House science committee, who issued a subpoena to National Oceanic and Atmospheric Administration scientists over a study finding that there had been no slowdown or pause in global warming, told the group that it's time for "good science, rather than politically correct science."

Steven Milloy, publisher of JunkScience.com, said the government has "perverted science."

"There is no science going on in NOAA or NASA or EPA," said Milloy, who served on the Trump EPA transition team, to chuckles and applause. "There is no such thing as climate science."

Ebell warned attendees that getting their agenda through will not be easy, swiping at Secretary of State Rex Tillerson as "part of the swamp" that likes to attend international climate meetings. And he noted that Trump's daughter Ivanka Trump and her husband, Jared Kushner, reportedly support the United States remaining in the Paris climate accord.

He urged those in the room to press for several top priorities: making a 31 percent budgetcut to the EPA, overturning the agency's finding that carbon dioxide endangers public health and withdrawing from the Paris climate accord, an issue on which the administration has not yet adopted an official policy.

"You add all these up," he said, "and it changes the entire direction of the country."

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The Hill

<http://thehill.com/policy/energy-environment/325826-pruitt-says-paris-accord-a-bad-deal>

New EPA chief calls Paris climate accord a 'bad deal'

By Rebecca Savransky 3/26/17 10:12 AM

Environmental Protection Agency Administrator Scott Pruitt on Sunday blasted the Paris climate agreement, calling it a "bad deal."

"You know, what was wrong with Paris was not just that it was, you know, failed to be treated as a treaty, but China and India, the largest producers of CO2 internationally, got away scot-free," he said during an interview on ABC's "This Week."

"They didn't have to take steps until 2030. So we've penalized ourselves through lost jobs while China and India didn't take steps to address the issue internationally," he continued.

"So Paris was just a bad deal, in my estimation."

Pruitt said the administration is now focusing on "getting things right here domestically and making sure we operate within the framework of the Clean Air Act."

Pruitt also during the interview talked about an executive order that will be coming out next week regarding regulations on power plants.

"The president is keeping his promise to the American people this week with respect to this executive order that's coming out on Tuesday, the Energy Independence Executive Order," Pruitt said. "And as you indicated, this is about making sure that we have a pro-growth and pro-environment approach to how we do regulation in this country."

Pruitt said the U.S. for too long has accepted the narrative that if "you're pro-growth, pro-jobs, you're anti-environment."

"And that's just not where we've been as a country throughout our existence," he said.

"We've made tremendous progress on our environment and we can be both pro-jobs and pro-environment, and the executive order's going to address the past administration's effort to kill jobs across this country through the Clean Power Plan."

Mashable

<http://mashable.com/2017/03/26/scott-pruitt-paris-climate-agreement-bad-deal/#NDqzB8yqPgqP>

Trump administration wants out of the Paris Climate Agreement. But have they read it?

By Maria Gallucci 3/26/17

The Trump administration has made no secret of its plans to dismantle the climate policies of former President Barack Obama.

But what Trump officials bring in fervor, they sometimes lack in understanding.

Scott Pruitt, head of the Environmental Protection Agency (EPA), railed against the Paris Climate Agreement in [an interview](#) with ABC News on Sunday. He called the landmark climate change accord a "bad deal" that unfairly penalizes the United States, while giving a free pass to other major polluting countries.

"What was wrong with Paris was ... that China and India, the largest producers of [carbon dioxide] internationally, got away scot free. They didn't have to take steps until 2030," Pruitt told anchor George Stephanopoulos.

"So we penalized ourselves through lost jobs, while China and India didn't take steps to address this issue internationally," Pruitt said.

As the EPA chief sees it, the U.S. is being forced to go on a carbon diet while China and India get to gobble all the coal, oil and natural gas they could ever want.

The problem with Pruitt's statement is that both China and India committed to taking aggressive actions under the Paris Climate Agreement. They are [leading the global boom](#) in renewable energy, with China rolling out massive offshore wind farms and fleets of electric cars, and India rapidly building rooftop solar.

True, China and India still burn huge amounts of fossil fuels. But the governments of those growing nations are seeking alternatives. They're also poised to snag many of the renewable energy jobs and investment dollars the U.S. would turn down if it scraps its climate policies, [experts say](#).

When it comes to the Paris treaty, Pruitt's criticisms that China and India get off "scot free" would've made more sense if he was talking about the 1992 Kyoto Protocol.

His confusion isn't entirely surprising, considering that Pruitt, who denies the reality of human-caused climate change, seems to be living in the distant past when it comes climate science.

The United States signed Kyoto, but then-President George W. Bush later rejected it because China, India and other emerging economies did not face legally binding requirements to reduce greenhouse gas emissions.

For decades, this tension between developed and developing countries stalled progress on global climate talks.

But in 2014, the United States and China helped end the stalemate by jointly committing their nations to fighting climate change. A year later in Paris, the heads of nearly 200 nations — the U.S., China and India included — all agreed to lower their respective emissions.

Countries committed to keep global warming to well below 2 degrees Celsius, or 3.6 degrees Fahrenheit, above preindustrial levels through 2100. They also set an aspirational goal of limiting warming to 1.5 degrees Celsius, or 2.6 degrees Fahrenheit.

Each government submitted its own plan for reducing emissions. Unlike Kyoto, however, none of those plans are actually legally binding — a fact that environmental groups say make the overall plan pretty weak, but which Pruitt seems to loathe anyway.

Still, it doesn't penalize one country and reward another.

The United States, the world's second-largest emitter after China, pledged to reduce emissions by 26-28 percent by 2025, compared to 2005 levels.

China, meanwhile, agreed to peak its carbon emissions by 2030 and make best efforts to peak earlier. More recent analyses show China's emissions could peak closer to the middle of the decade than 2030.

The world's top carbon emitter also pledged to increase use of non-fossil fuel-based energy to 20 percent of its energy consumption within the same time frame.

India, which accounts for 4.5 percent of global emissions, set targets to lower its emissions intensity — or emissions per unit of economic output — by up to 35 percent by 2030, compared to 2005 levels. The nation of 1.3 billion people also agreed to boost the share of renewable electricity capacity to 40 percent of its installed power base by 2030. That involves nothing less than an electricity revolution in a nation where 300 million still lack access to the grid.

While it's true the U.S., China and India don't have the same targets, that's not a reflection of the Paris Climate Agreement. It's a reflection of each government's choices.

Still, none of this will convince Pruitt and the Trump administration to stick with the Paris agreement. And it certainly won't sway them to keep the EPA's Clean Power Plan, which is the emissions-cutting program that would help the U.S. meet its Paris targets.

Pruitt told ABC News that President Donald Trump will sign an executive order to begin rolling it back this week.

The Week Magazine

<http://theweek.com/articles/687881/trump-brakes-fuel-standards>

Will Trump put the brakes on fuel standards?

3/26/17

President Trump is granting automakers "their top wish," said Bill Vlasic at The New York Times. While visiting Detroit last week, Trump pledged to reopen a government review of the strict fuel efficiency standards set by the Obama administration in 2012. The rules, "a pillar of President

Obama's climate change legacy," require automakers to almost double the average fuel economy for new cars and trucks to 54.5 miles per gallon by 2025. The Environmental Protection Agency affirmed those standards in January, wrapping up a midterm review of the agreement in the final days of Obama's presidency. But automakers complain that the review didn't give them enough time to contest the government's fuel targets, which they say are too ambitious. Now they'll get a chance to argue their case before an administration that's vowed "to remove the shackles of regulation" from industry.

Automakers say they want fuel standards "that recognize today's market realities," [said Brent Snively at the Detroit Free Press](#). The Obama administration initially estimated the new standards would save drivers \$1.7 trillion in fuel costs over the life of the vehicles, while costing the auto industry roughly \$200 billion over 13 years — costs that car makers say would be passed on to consumers. The new rules were supposed to encourage automakers to build more electric and hybrid vehicles. But since then, gas prices have plummeted and consumers have once again started "craving fuel-thirsty SUVs." The U.S. auto industry might regret getting what it wants, [said Joann Muller at Forbes](#). Right now, other countries are imposing tough emissions regulations, making them unlikely to buy gas-guzzling American autos. "If the U.S. relaxes the standards, automakers could quickly get lapped by more innovative global players."

Rather than rolling back fuel standards, Trump should scrap them entirely, [said Virginia Postrel at Bloomberg](#). Fleetwide fuel economy standards "are a terrible way to achieve either fuel savings or lower carbon emissions." They make newer vehicles more expensive, which means drivers hold on to gas-guzzling older autos longer. Fuel standards also meddle in corporate strategy by compelling companies "that are good at making and selling larger vehicles to make and sell little cars as well." Forcing General Motors to churn out Chevy Cruzes "doesn't do much for the environment."

Detroit shouldn't expect any regulatory relief soon, [said Aarian Marshall at Wired](#). A new EPA review will take months, and California — the nation's largest car market — has the authority to set its own tailpipe standards under the Clean Air Act. California helped develop the Obama-era rules, and its more stringent standards are followed by 13 other states and Washington, D.C. That means automakers will either have to build different cars for different markets, which is "untenable businesswise," or stick to the old standards. Trump could take the unprecedented step of trying to revoke California's special status, but that would trigger a massive legal battle. "In summation, buckle up."

Washington Post

https://www.washingtonpost.com/opinions/trumps-auto-regulations-rollback-will-end-up-costing-americans/2017/03/25/85eb1c42-09ca-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.dbe31116f2a8

Trump's auto regulations rollback would end up costing Americans

3/25/17

IN THE start of what promises to be a broad rollback of federal environmental rules, President

Trump announced on March 15 that he has reopened review of an auto efficiency regulation that would have forced the nation's vehicle fleet to use less fuel and cut pollution and which the Environmental Protection Agency finalized in the closing days of the Obama administration. Promising a Detroit crowd that he would "protect and defend your jobs, your factories," the president failed to mention the rule's benefits: curbing the country's gasoline addiction would shrink fuel bills and reduce the country's carbon footprint. Nor did he mention the EPA and the National Highway Traffic Safety Administration's exhaustive studies finding that the rule is technically feasible and that its benefits, particularly in gas savings, would far outweigh its costs.

The auto industry pushed the Trump administration hard to revisit the rule. The nation as a whole will pay the price.

The Obama administration's fuel-efficiency regulations will stay in place through 2022. But the standards in question, for model years 2022 through 2025, are much more ambitious. Set in 2012 and formally reviewed just before Mr. Trump's inauguration, the industry's efficiency target is a fleetwide 54.4 mpg. "Automakers have a wide range of technology pathways available to meet the MY2022-2025 standards, at slightly lower per-vehicle costs than previously predicted," the EPA concluded as it reaffirmed the rule in January.

In response to the standards already in force, national vehicle fuel economy has begun to rise. In its 2017 Annual Energy Outlook, the Energy Information Administration projected that the government's efficiency drive would cut gasoline consumption to the lowest level in decades. Overall, without any further tightening of the rules after 2025, transportation-sector energy use and greenhouse emissions would be modestly lower by 2040, but that is actually an accomplishment: A growing economy, increased jet travel and wider consumer interest in big cars would tend to raise those numbers. Instead, the Obama administration's regulations would push the economy to do more with less.

Unsurprisingly, the Rhodium Group, an economic consulting firm, concluded before the Obama administration reaffirmed the standards in January that they are an important part of the effort to meet the nation's 2025 Paris climate commitment. "If the review process produced stronger standards . . . the action would help the US make modest additional progress in meeting the 2025 target. If the review were to weaken the current standard, it would set back emission reduction efforts considerably." By reopening review, the Trump administration is likely to take the latter course.

InsideEPA

<https://insideepa.com/daily-news/proponents-push-boost-brownfields-superfund-rebuke-trumps-cuts>

Proponents Push To Boost Brownfields, Superfund in Rebuke TO Trump's Cuts

By Suzanne Yohannan 3/24/17

Proponents of EPA's cleanup programs are pushing to shore up funding in a rebuke of the Trump administration's proposed spending cuts, with bipartisan House lawmakers eyeing brownfields legislation amid a strong push by EPA Administrator Scott Pruitt, as well as city, county and state officials, who have advocated for the program in recent weeks.

Reps. Elizabeth Esty (D-CT) and John Katko (R-NY) plan next week to introduce brownfields reauthorization legislation to fund the popular program, according to both lawmakers' offices. The program is currently authorized at \$250 million per year though appropriators have generally provided less than that.

A spokesman for Esty, at press time, was unsure whether the new legislation will go beyond reauthorizing existing funding levels and include policy measures, although he pointed to prior legislation she introduced that would have expanded the program.

In the last Congress, Esty introduced H.R. 4463, that would have maintained level funding, expanded eligibility for brownfields grants and authorized new multi-purpose grants.

In 2014, she also introduced related legislation that would have reauthorized a brownfields tax incentive measure known as Section 198 of the Internal Revenue Code. The legislation was unsuccessful, and the measure remains expired.

The legislation's pending introduction comes as the House Transportation & Infrastructure Committee's water resources and environment subcommittee is slated to hold a hearing March 28 on brownfields.

The hearing will be titled "Building a 21st Century Infrastructure for America: Revitalizing American Communities Through the Brownfields Program."

The issue could gain traction as House Democrats and Republicans in February signaled they are weighing options for pushing brownfields reforms in a bipartisan effort. Rep. John Shimkus (R-IL), chairman of the House Energy & Commerce environment subcommittee, indicated at a February hearing that he expected to focus, along with his colleagues, "on brownfields," among other things, that the committee may be able to move forward on in a collaborative manner.

Shimkus told reporters March 1 that he also hopes to do a "deep dive on Superfund" in the next four to six years, but that in the nearer term, brownfields would be a portion "of that big bill that you can do now."

Brownfields legislation is also likely to see interest from senators on both sides of the aisle. The Senate last June approved bipartisan legislation that would have reauthorized and amended the brownfields law to expand opportunities under the program for cleaning up and redeveloping contaminated properties.

Pruitt has also been making the case to restore funds, calling on mayors and other local officials to highlight the program's successes. "I want to be able to share those [success stories] with the White House. I want to be able to share that the investment in that brownfields program needs to be enhanced and strengthened because it literally goes to job creation, benefit to the community and environmental benefits, as well," Pruitt told the U.S. Conference of Mayors winter leadership meeting in Washington, D.C., March 2.

Pruitt reiterated that message at a March 14 forum before the National League of Cities (NLC), telling the group that "It is important that the EPA and the U.S. government continue to fund brownfields and fund Superfund sites to ensure that we have success on the back end."

Budget Cuts

The program, despite its popularity in Congress, is facing a significant cut in the Trump

administration's budget request for fiscal year 2018.

So far, the White House has released few details on its budget request, other than indicating generally that it will seek to slash EPA's \$8.1 billion budget by \$2.4 billion, or more than 30 percent.

But a March 22 report released by former EPA and other officials, working in a group known as the Environmental Protection Network (EPN), details a host of proposed cuts to both the Superfund and the brownfields programs based on additional budget information the group has acquired.

For example, the group says brownfields redevelopment grants across several agencies are slated to be cut by 40 percent, from \$25.6 million under current levels to \$14.7 million in FY18.

State grants for brownfield projects, funded at \$80 million in FY16, would be eliminated, and state categorical grants for brownfields would be cut 30 percent, from \$47.7 million to \$33.4 million.

Sources outside EPA believe that Pruitt successfully fought an earlier budget plan to zero out the brownfields program, and say that the resulting budget request does fund the program but at lower levels than what was previously requested or enacted. One source says eliminating the program would be "dead on arrival" when sent to Congress.

In the face of such cuts, scores of state and local officials are stepping up their efforts to restore funds for both brownfields and Superfund cleanup programs.

Sources with the U.S. Conference of Mayors and NLC both say their groups have been sending their message to support the brownfields program to Congress in recent weeks. The National Association of Counties and National Association of Regional Councils have also been discussing the program with lawmakers' offices, a U.S. Conference of Mayors' source says of the various groups that are making a pitch to fund the program.

And in a March 16 letter to Pruitt, the U.S. Conference of Mayors says that in response to the administrator's request, the group has forwarded him various brownfields reports that in part highlight brownfields redevelopment projects.

"As you can see from all of these reports, EPA's Brownfields Redevelopment Program has a proven track record of redeveloping sites and creating jobs," the letter says. It touts the thousands of jobs created through the redevelopment of brownfields properties, as well as the increase in tax revenues that resulted. For instance, it says 62 cities reported "actual tax revenues from redeveloped brownfield sites totaled over \$408 million with an estimate of potential revenues ranging from \$1.3 - \$3.8 billion."

The group goes on to say, "We think these reports justify a continued investment in the Brownfields Program and we stand with you to support the full funding of this vital program."

Superfund Cleanups

Meanwhile, New York's Attorney General (AG) Eric Schneiderman (D) is charging that significant Superfund cuts proposed by the administration might undermine cleanups.

Schneiderman (D) March 21 held a press conference along the Gowanus Canal Superfund site, pointing to the "drastic effects" the state AG says would result from EPA's funding slashed by a third under the "skinny" budget proposal.

Schneiderman pointed to cuts to grants, Superfund, research and development, enforcement and the elimination of funding for climate change plans and programs and 50 other programs, noting that "if the Trump administration won't meet its legal obligations to ensure basic access to a clean, safe, and healthy environment, we won't hesitate to act to protect New Yorkers."

Specifically on Superfund, he charged the cut would be 43 percent. The administration is proposing to cut \$330 million from the Superfund program's current budget of almost \$1.1 billion, leaving the program with \$762 million -- a 30 percent cut. The AG's office did not respond to a request to clarify its determination that the cut would be 43 percent.

According to the Trump administration's budget documents, the budget request "reins in Superfund administrative costs and emphasizes efficiency efforts."

Schneiderman in a March 21 press release argues that the Superfund cut could mean staffing and administrative funding cuts, thereby undermining "EPA's ability to perform vital oversight and management of cleanups -- potentially slowing or even halting the vital progress made at the 85 federal Superfund sites across New York State." These sites include Gowanus Canal, among many others, he said.

But a private practice Superfund attorney says Schneiderman is "grandstanding" and "misleading," because the source says potentially responsible parties at the site fund the work there under a special account set up for the Gowanus Canal cleanup so the source argues cuts to the Superfund budget would not affect that cleanup. It is unclear why Schneiderman chose the Gowanus site as a backdrop for his press conference on the budget cuts but President Trump's son-in-law, Jared Kushner, in recent years purchased a development site along the canal, which is considered one of the most polluted waterways in the country.

Schneiderman also points to the concern that sites such as the proposed Saint-Gobain Performance Plastics Site in Hoosick Falls, NY -- which drew heavy attention when perfluorinated chemicals were found in drinking water -- may not be placed on Superfund's National Priorities List due to the proposed budget cuts. Even if it does get listed, he says there are "significant questions" over whether staff and resources will be sufficient to address the public health threat it poses. -- *Suzanne Yohannan* (syohannan@iwpnews.com)

InsideEPA

<https://insideepa.com/daily-news/california-retains-vehicle-ghg-rules-invites-industry-sit-down>

California Retains Vehicle GHG Rules But Invites Industry To 'Sit Down'

By Curt Barry 3/27/17

The California Air Resources Board (CARB) is retaining the state's vehicle greenhouse gas standards for model year 2022-2025 that currently align with national rules, but is inviting the auto industry to discuss its implementation concerns, though its top official is promising to

maintain the rules “overall impact.”

The move suggests that the board may be open to tweaking its rules to maintain one set of national requirements amid the Trump administration's recent move to revisit federal standards, though it indicates a relatively narrow set of options may be available to the administration and the industry as they work to review the parallel federal standards.

“We invite you to come and sit down with us, if you have specific concerns about the implementation of the existing regulations that can be addressed without weakening the overall impact, which is what I've heard the leaders of your associations say is what you wanted to do,” CARB Chairwoman Mary Nichols said during a March 24 meeting, addressing industry representatives.

However, Nichols also sharply criticized the automakers for asking EPA to reopen its mid-term review of the MY22-25 standards.

“What were you thinking? What were you thinking when you threw yourselves on the mercy of the Trump administration to try to solve your problems?” she said. “It just does not make sense.”

She also attacked the industry, charging it had lobbied behind the scenes for EPA to reject or revoke CARB's Clean Air Act waiver to implement stricter vehicle GHG emission rules than the federal government.

“And when we hear today that you didn't really mean to question the validity of the California waiver -- well, our newly confirmed head of the EPA said he was prepared to do just that,” Nichols said. “What did you mean when you said you didn't want to question the overall thrust of the standards? Why do another review if the current program is basically okay?”

Despite her sharp criticism, she added: “Now, if there were changes that needed to be made again on the implementation side, bring them forward and have a discussion. We invite you to do that.”

Nichols comments came one day after the Alliance of Automobile Manufacturers sent letter to California officials and the White House that stressed the importance of maintaining “one national program” of GHG rules, in which state, EPA and Transportation Department (DOT) standards are aligned, despite the Golden State's authority to enforce stricter limits.

In its March 23 letter to the White House, the group both signaled that it does not want a broad rollback of the program, while urging California to participate in the Trump administration's renewed review of the federal program.

“Automakers seek certainty, predictability and rationality -- over time -- from the regulatory process,” the letter says. “Given the multi-agency and federal/state realities of these programs, the idea of [a national program] is critical to smart, coherent regulation.”

The group added that it hopes “all stakeholders, including California, [will come] to the table in a genuine, serious and constructive effort to build consensus for a thoughtful, coordinated policy outcome.”

Given California's offer to “sit down” with automakers, as well as industry's stated goal for a “consensus” process, it appears less likely that the Trump administration will ultimately target the state's air act waiver, an unprecedented step that state officials vowed to vigorously oppose in court.

'Standards Are Appropriate'

At the meeting, CARB passed a resolution that accepts its staff's Jan. 18 mid-term review of its multi-pronged Advanced Clean Cars regulation, which includes the GHG tailpipe standards, zero-emission vehicle (ZEV) regulation and low emission vehicle (LEV) III air pollution emission limits, including an ultra-low particulate matter standard.

Specifically, CARB concludes that its staff's analysis of the vehicle GHG standards “affirmed current federal standards are appropriate, and CARB recommends continued participation in the National Program through 2025, provided no future changes weaken expected benefits in

California.”

Last week, EPA and DOT announced they would revisit the Obama EPA's January determination to retain current GHG standards for MY22-25 vehicles, which was widely seen as a move to complicate any Trump efforts to soften the rules.

This week, EPA Administrator Scott Pruitt defended the move to re-open the mid-term review, suggesting that it is part of a broader effort by the administration to provide relief to the auto sector.

Gov. Jerry Brown (D), visiting with federal officials and lawmakers this week in Washington, D.C., ramped up the Golden State's rhetoric on expected Trump administration efforts to soften the light-duty vehicle GHG standards and potentially target the state's power to set stronger limits.

Nichols also during the meeting criticized as “troubling” recent automaker suggestions that CARB agreed in 2011 as part of the national pact on the MY17-25 standards that companies would be “deemed to comply” with California rules as long as they met whatever federal standards are in place during that time frame.

The state's mid-term review, she noted, says such “deemed to comply” language applies only if the federal program is unchanged from the current requirements.

And Nichols pushed back on automaker statements that EPA prematurely ended the federal mid-term review, arguing “it was never intended” by the federal agencies and CARB that the review would “have to go out to the full possible length” of the schedule laid out by the regulators, which was mid-2018.

She said the automakers' complaints about this process “struck us as being strange, to put it mildly, and certainly not based on the agreement that we were part of.”

CARB says in its mid-term review that it is beginning to develop post-2025 GHG tailpipe

standards because the "national program is very modest in terms of promoting electrification needed to meet California's public health and environmental needs beyond 2025."

ZEV Requirements

CARB's passage of the resolution also maintains the stringency of its ZEV and LEV III regulations through 2025, despite calls by automakers to ease the ZEV requirements, especially given the fact that several Northeast states have adopted California's rules. Industry says there is poor demand for ZEVs in that region.

The CARB plan calls for ZEV requirements to be strengthened "for 2026 and subsequent model years to continue on the path towards meeting California's 2030 and later climate change and air quality targets." New provisions will target how ZEV credits are generated and to "increase certainty on future vehicle volumes, technology improvement," and plug-in hybrid electric vehicle qualifications and other factors to maximize GHG and criteria pollutant reductions.

Steve Douglas, representing the auto alliance, told the CARB meeting that "the ZEV market is not sustainable today." He said the board's regulations are "very aggressive," requiring a tripling of sales over the next few years and requiring other states to sell "five to 10 times" that amount.

Douglas pointed out the industry's recommendations for easing the current ZEV standards, but said if the board was not interested in making changes now, "we ask the board to continue to monitor this and make appropriate changes in the 2019 time frame." -- *Curt Barry*
(cbarry@iwpnews.com)

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17[Actadmmccabe.catherine17@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Fri 3/10/2017 9:48:21 PM
Subject: RE: OPA Clips 3/10/17

Below: The Hill, Huffington Post, InsideEPA, PoliticoPro, E&E News, Quartz, Politifact, AP, Bloomberg, Wall Street Journal, Automotive News, Huffington Post, BNA (5), InsideClimate News, Reuters (3/9), The Hill (3/9), The Washington Times (3/9), AP (3/9), InsideEPA (3/9)

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The Hill

<http://thehill.com/policy/energy-environment/323447-carbon-dioxide-levels-in-atmosphere-hit-new-high>

Carbon dioxide levels in atmosphere hit new high

By Devin Henry 3/10/17, 3:50PM

Atmospheric carbon dioxide levels hit a new high last year and have only continued to climb in the first two months of 2017, federal scientists reported Friday.

The concentration of carbon dioxide in the atmosphere at a U.S. observatory in Hawaii rose by 3 parts per million (ppm) to 405.1 ppm last year, according to the National Oceanic and Atmospheric Administration (NOAA).

Carbon dioxide levels jumped by 3 ppm between 2015 and 2016 and have “surged” by 6 ppm over two years, a level of growth unseen in the Mauna Loa observatory’s 59-year history, NOAA said.

NOAA noted that it has already observed a carbon dioxide level topping 406 ppm this year. The agency called it “a real shock to the atmosphere.”

“The rate of CO₂ growth over the last decade is 100 to 200 times faster than what the Earth experienced during the transition from the last Ice Age,” Pieter Tans, the lead scientist of NOAA's Global Greenhouse Gas Reference Network, said in a statement.

Many scientists warned for years that carbon dioxide levels should not rise above 400 parts per million — a level 43 percent higher than pre-industrial times — if the worst of climate change was to be avoided. The global carbon dioxide average passed that mark in 2015.

The vast majority of climate scientists agree that increased greenhouse gas emissions — driven by human activity like fossil fuel consumption — are behind global climate change.

But conservative U.S. policymakers continue to dispute that consensus view, including Environmental Protection Agency Administrator Scott Pruitt, who this week said he “would not agree” that carbon emissions are a “primarily contributor to the global warming that we see.”

Huffington Post

http://www.huffingtonpost.com/entry/trump-energy-star_us_58c2e96be4b0ed71826c70ef

Energy Star Is Cheap, Popular and Saves Billions Of Dollars. Trump Wants To Gut It.

By Alexander C Kaufman 3/10/17, 3:39PM

Over the past 25 years, the federal government's Energy Star program has become a valuable marker for all kinds of industries. Real estate agents upsell buildings that have been Energy Star-certified as energy efficient. Homeowners seek out its blue logo on electricity-guzzling appliances and devices.

But the White House has proposed eliminating funding for Energy Star and instructed the Environmental Protection Agency to “begin developing legislative options and associated groundwork for transferring ownership and implementation of Energy Star to a non-governmental entity,” according to a draft budget the energy news service E&E News obtained this week.

The cuts come as part of President Donald Trump administration's effort to channel federal spending away from a variety of other programs and toward a \$54 billion military buildup. But Energy Star helps save even more than the \$57 million that the federal government spends on it each year, according to more than a dozen business executives, building consultants and energy advocates The Huffington Post interviewed this week.

Energy Star is a voluntary initiative that has a number of different aspects. It includes a certification program for appliances, electronics and lighting; an evaluation system for rating the efficiency of homes and buildings; a program that trains engineers in energy efficiency; and an award series for eco-friendly small businesses. Nine major cities and a handful of states require landlords to report energy and water efficiency per Energy Star standards as part of their building codes.

Roughly 24 small and major cities across the country now use Energy Star standards in their building codes.

Energy Star has slashed \$430 billion off utility bills and reduced greenhouse gas emissions by 2.7 billion tons since its inception, according to [2015 estimates](#).

“It’s such a win for our economy and such a huge return on investment of federal dollars,” said Kateri Callahan, president of the nonprofit Alliance to Save Energy. “It’s penny wise and pound foolish to look at reducing funding, let alone defunding the program or stopping it completely.”

For builders, Energy Star provides a standard to measure the energy efficiency of their properties. For landlords and building managers, free Portfolio Manager software launched under the initiative helps monitor energy and water use and shave hundreds off utility bills. For engineers, the program offers guidelines on indoor lighting, plumbing, ventilation, heating and cooling, ensuring that their structures waste as little electricity, heating gas and water as possible.

“There are three stages of a project: Where are you now? Where do you want to be? And what steps do you have to take to get there?” said Glenn Tanner, principal engineer at a Torrance, California-based green engineering design firm called MEP. “Energy Star’s benchmark is the first way to find out where you are. You can’t make improvements if you haven’t measured where you are.”

Having a single national Energy Star standard is also helpful.

“You can compare your building in New York to somebody else’s building in Houston to another in Chicago or Detroit and know where you stand,” said Jim Newman, who runs a green building consultancy out his home in the Detroit area.

Real estate agents also like Energy Star because they can advertise certified houses — which are 30 percent more efficient than average homes — on their eco-friendly and cost-saving merits. And as banks remain wary of lending to homebuyers with poor credit a decade after the real estate bubble burst, energy-efficient homes provide some potential reprieve. People who live in more efficient homes are 32 percent less likely to default on their mortgages, according to a [2013 study](#), in part because up to 15 percent of household spending can end up paying for utilities.

“If you’re talking about affordable housing and vulnerable populations out there, these kinds of things make a huge difference,” said Dan Teague, vice president of business development at the Wegowise, a software company that helps building owners track utility and water data using Energy Star benchmarks. “It can be the difference between paying rent and paying utilities.”

Energy Star has become a well-known brand since it was first created in 1992. A [2015 survey](#) by the Consortium for Energy Efficiency, a utility-backed group, found that 83 percent of American households [recognized the brand without visual aid](#). The ubiquity of Energy Star has made it easier for people to identify energy-efficient appliances.

The EPA did not respond to questions on Friday about the proposed Energy Star phaseout.

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That isn't to say the program doesn't have faults. The certification process is susceptible to fraud, according to a 2010 Government Accountability Office [report](#).

GAO's investigators were able to obtain certifications for 15 bogus products — including a “geothermal heat pump” and a “gas-powered alarm clock” described as being “the size of a small generator.” Soon after, Energy Star began requiring third-party certification of energy savings on appliances, a rule that rankled manufacturers who said it placed an undue burden on them. The Association of Home Appliance Manufacturers [criticized](#) the EPA last year for issuing stricter qualifications for Energy Star refrigerators and freezers than the Department of Energy, which provides \$7 million of the program's budget. The EPA pays for the other \$50 million.

The program has endured years of attacks by [ring-wing commentators and conspiracy peddlers](#) who depict Energy Star as yet another weapon in the arsenal of environmental culture war bogeymen.

Glenn Beck and Rush Limbaugh waged what became known as the “[light bulb wars](#)” after Congress passed the Energy Independence and Security Act of 2007, aimed at increasing energy efficiency and reducing use of fossil fuels. Conservative pundits falsely accused lawmakers of seeking to ban incandescent bulbs to bolster LED lighting, which uses [75 percent](#) less energy and lasts up to 25 times longer. Beck's rancor on the issue reached such a pitch that his website The Blaze at one point [addressed rumors](#) that the media mogul threatened to fire employees who bought energy-saving bulbs or biodegradable utensils.

Consumer demand ultimately anointed energy-saving lighting as the victor. The global LED industry is forecast to grow to \$33.1 billion in 2017 from \$29.6 billion the previous year, with 52 percent of the market, according to a [report](#) by the research firm TrendForce. Yet conservative pundits continue to pooh-pooh renewable fuels and energy-saving technology by condemning what they call government attempts to “[pick winners and losers](#).”

“There is a philosophy that consumers will make the right decision on their own accord; if they're really going to save money, they'll buy efficient products,” Callahan said. “But there's a lack of information out there that acts as a market disturbance.”

Conservative media mogul Glenn Beck became one of the leading critics of regulations favoring energy-saving LED lighting.

There are alternatives. The American Society of Heating, Refrigerating and Air-Conditioning Engineers offers [certification](#) in building design, energy assessment and facility management, but charges annual membership fees. Another nonprofit called Architecture 2030 provides green design and engineering training and software as well as public-private partnership programs.

But both initiatives lack the breadth or international name recognition of Energy Star. Private alternatives also lack the access to international markets provided by Energy Star's [partnerships](#) with regulators in Australia, Canada, Japan, New Zealand, Switzerland, Taiwan, the European Union and the European Free Trade Association, which includes Iceland, Liechtenstein and Norway.

“There are other things that can take its place, but it’s going to take a while,” Newman said. “And they’re going to be more expensive to do.”

Privatizing Energy Star could kneecap cities’ efforts to reduce greenhouse gases. Residential and commercial buildings account for about 39 percent of the U.S. carbon footprint, making it the largest source of planet-warming gases. Metropolitan areas such as Atlanta, Minneapolis and New York City require landlords to benchmark their buildings to Energy Star standards as a means of reducing emissions.

“Despite a sea of competition among private groups that want to rate your building, people all fall back on the government one because they trust it and, at the moment, it’s free,” said Christopher Cayten, a principal at the New York-based environmental consultancy CodeGreen Solutions. “That means it’s free to comply with these laws to benchmark buildings.”

“If a fee is put in place to use this tool, people may have to revisit even having benchmark requirements in cities,” he added. “Cities can’t force you to use a private tool.”

That may be a low priority for the White House. Trump pledged to bolster U.S. economic growth by macheteing environmental regulations he blames for strangling fossil fuel industries and hampering manufacturing. Earlier this month, he proposed cutting the EPA budget by 20 percent and pink-slipping 1 in 5 employees, essentially crippling its enforcement division.

Despite irrefutable evidence, the president has repeatedly smeared climate science, suggesting that the idea of humans contributing to global warming is “a hoax.” As one of its first acts under the new administration, the EPA halted a request for oil and gas drillers to report emissions of methane, a greenhouse gas 40 times more potent than carbon dioxide.

“When you save energy, in addition to saving consumers’ money, you also benefit the environment *and* create jobs,” said Lowell Ungar, senior policy adviser at the nonprofit American Council for an Energy-Efficient Economy. “In the end, this is a program to help people save money. That’s why it’s so popular. It’s about helping real people.”

InsideEPA

<https://insideepa.com/daily-news/epa-defends-staffs-changes-water-offices-science-mission-statement>

EPA Defends Staff’s Changes To Water Office’s ‘Science’ Missions Statement

By David LaRoss 3/10/17

EPA is defending a controversial change to its water office's Office of Science and Technology's (OST) mission statement, saying the removal of a commitment to develop “science-based” water standards grew out of a staff effort to clarify what the office does rather than being driven by the Trump administration, though environmentalists and former EPA officials remain concerned.

“It is unfortunate because this really isn't caused by the new administration. Our communications people just wanted plain language to describe our mission. We thought saying that developing safe levels for toxics, nutrients and pathogen indicators clearly implied the use of best available science and provided links to the science with the mission statement,” says a March 9 email written by an EPA water official and obtained by *Inside EPA*.

And an agency spokesperson told *Inside EPA* March 10 in response to a request for comment on the change that OST “recently updated its online description to provide language that better explains the outcomes of its work to the public, using terms that are more specific and more understandable. EPA often makes improvements in its website language on a rolling basis. The specific changes you asked about were part of this ongoing website improvement, not a result of the change in Administration.”

Nonetheless, an environmentalist says the shift might represent a decision to prepare for a more industry-friendly approach at OST, which crafts water quality standards and other pollution limits that become the basis for Clean Water Act (CWA) and Safe Drinking Water Act rules.

For example, the environmentalist raised concerns that the new mission statement now says the office develops only “recommended” standards, rather than mandatory requirements, and also eliminated a reference to “protecting public health and the environment.”

Those two things caught my eye even more” than the absence of the “science-based” language, that source says.

As first reported by *The New Republic*, archives of the OST website compiled by the Environmental Data and Governance Initiative -- a group that is monitoring changes to EPA and other agencies' online data -- shows OST revised its mission statement in late January or early February.

A source with the group said the change likely means that EPA is moving toward more technology-based standards, where dischargers just have to install certain types of technology, rather than setting performance-based standards that dischargers have to meet. “This is the most important thing we’ve found so far... The language changes here are not nuanced -- they have really important regulatory implications,” she said.

The office's new mission statement now reads, “OST works with states, tribes, and other stakeholders to develop recommended safe water quality levels for toxics, nutrients, and pathogens to help ensure our nation's waters can be used for fishing, swimming, and drinking water. OST also develops national economically and technologically achievable performance standards to address water pollution from industry.”

Prior to Jan. 20, according to EPA's own archive of its Obama-era website, the statement read, “OST is responsible for developing sound, science-based standards, criteria, health advisories, test methods and guidelines under the Clean Water Act and the Safe Drinking Water Act. We work with partners and stakeholders to develop the scientific and technological foundations to achieve clean water through national programs that protect people and the aquatic environment.”

'Dark Signal'

In a March 9 interview with *Inside EPA*, conducted before either EPA statement, former OST director Geoff Grubbs -- who headed the office from 1999-2005 -- described the change as sending a “disappointing and relatively dark signal. It takes away the emphasis on sound, science-based standards, and instead emphasizes economic and technological achievability. Those are very different things, in capital letters.”

And another former water official told *Inside EPA* that the shift appears to show the agency under Trump moving away from performance-based standards, based on pollution limits that dischargers must achieve, and toward technology-based standards that can be satisfied simply by installing an approved treatment technology.

The second official says “It was always a push and shove within the organization over the issue of technology-based versus performance-based,” and the change in OST's mission statement could be an early sign that the balance will shift now that the Trump administration is in power.

But the official downplayed the potential for a complete shift to technology-based standards, saying the CWA restricts EPA's ability to take such a step since many provisions require the

agency to set pollution limits for specific dischargers or waterbodies.

“The problem with that debate has always been that it depends on the pollution source -- you can't always address it with technology,” the source says.

Both Grubbs and the environmentalist say the language emphasizing “recommended safe water quality levels” is also concerning because much of the work OST does involves setting binding limits, such as CWA effluent limitation guidelines that must be met in facilities' discharge permits, rather than recommendations.

“That's flat wrong . . . those are national rules. It's not coming up with a recommendation that we hope you'll like,” Grubbs said.

But Grubbs continued that a change in the mission statement on its own is unlikely to directly lead to any shift in EPA's activity since “EPA staff doesn't spend time looking at their own website.” Rather, he said, the change will only be significant in the long run if it reflects a change in the office's culture.

“This is not directive. It's not governing. But it's more directional and identity-shaping,” he said.

The environmentalist said that regardless of the origin of the new OST language, groups worried about how the Trump administration will shape EPA will be paying close attention to the office's actions in light of the statement.

“The proof is in the action,” that source says. -- *David LaRoss* (dlaross@iwpnews.com)

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PoliticoPro

<https://www.politicopro.com/tipsheets/energy-regulation-watch/2017/03/trump-starts-wotus-rollback-021791>

Trump Starts WOTUS rollback

By Alex Guillen 3/10/17, 2:27PM

EO UPDATE — WOTUS ROLLBACK GIVES EPA OPTIONS: The executive order President Donald Trump signed last week may show his commitment to undoing the Obama administration's Waters of the U.S. rule, but it doesn't offer many clues about the path his administration will take to try to get there. Annie Snider has more on the possibilities here.

After before Trump signed his order, the Justice Department asked the Supreme Court to put the WOTUS case on hold while EPA and the Corps undertake their review of the Obama administration's rule.

Petitioners, led by the National Association of Manufacturers, are due to file their main briefs on April 13, and according to the DOJ petition have not yet decided whether they'll support or oppose placing the case on hold. Even though industry groups generally support the Trump administration's moves to begin undoing the rule, they also recognize that any new rule is all but certain to end back up in court and will face the same question that the high court is poised to consider about where such challenges belong.

That escalated quickly: Pruitt said during a CNBC appearance Thursday that it took less than eight minutes for EPA to begin implementing Trump's WOTUS order. Now that's service.

Next up — CPP and auto emissions: The administration is publicly acknowledging that more orders on the Clean Power Plan and the 2022-2025 auto emissions standards are coming soon, possibly next week. Neither comes as a surprise, since Trump campaigned on killing the carbon rule, and automakers since the election have been begging the White House to weaken the emissions standards. The devil, of course, is in the details. On the Clean Power Plan, one of the big questions is whether Trump directs EPA to pursue an alternative rule immediately, something Trump has never proposed or discussed, or focus on repealing the

CPP. Meanwhile, the administration has to decide whether to go after California's Clean Air Act waiver that would allow the state and a dozen others to enforce stricter emissions standards, potentially sparking an outright war with blue states on climate change.

ICAHN FEEL IT IN THE AIR: There's been an entire season-long story-arc swirling around the Renewable Fuel Standard and billionaire and presidential pal Carl Icahn since Reg Watch last hit

your inboxes. Last month Icahn turned the ethanol world on its head when news broke that Icahn had called Renewable Fuels Association CEO Bob Dinneen to inform him that an executive order changing which companies would bear the burden of complying with the RFS was a done deal. The change is one of Icahn's fondest wishes, and one that the ethanol community — along with much of the oil industry — had long opposed. But Dinneen, believing Icahn to be representing the administration, scrambled to get what concessions he could for his program.

Icahn do this: Soon after the call, Icahn and Valero presented the White House with draft language for a memo or executive order to make the change, and policy staff got as far as discussing it. But no memo emerged. RW hears that staff are more interested in mileage standards and the Clean Power Plan than the RFS, which presents complicated politics for Trump

Icahn feel the heat rising: In the meantime, Icahn suddenly found himself on the defensive, forced to answer charges that he'd become a special government employee and subject to conflict of interest laws, and from a complaint from Public Citizen that he acted as an unregistered lobbyist. And an enraged ethanol community, feeling betrayed by Dinneen, booted RFA from Fuels America, a coalition of the largest trade associations and ethanol groups.

Icahn feel it coming back again: Icahn still holds a title as a special adviser to the president, still wants to see the RFS changed, and he's still close friends with the president. The issue may cool for now, but it could pop up any time. Meanwhile, the EPA still has to sort through comments from its proposed rejection of petitions to make the change and perhaps a final call.

Clean Power Plan: The D.C. Circuit might have hinted Wednesday that it won't rule on the marquee lawsuit challenging the Clean Power Plan for at least a couple more weeks. The 10 judges hearing that case set a March 20 deadline for various briefs to be filed in a secondary dispute over whether to consolidate it with a separate lawsuit related to EPA's rejection of petitions to reconsider the rule. But the judges could still rule before then, rendering this side issue moot. So does that really mean the Clean Power Plan ruling is now on hold? "Your guess is as good as mine," one attorney told POLITICO.

Diesel engines: A federal judge says Illinois-based Navistar Inc. is liable under the Clean Air Act for the sale of almost 7,800 diesel engines in the U.S. that were not certified by EPA. Judge Manish Shah of the U.S. District Court in Northern Illinois sided with EPA is assigning liability to Navistar. He denied, at least temporarily, EPA's request to also hold liable Navistar's parent

company, Navistar International Corp., leaving that matter for trial.

Hazardous waste: A coalition of industry groups has sued EPA over its November update to a hazardous waste generator regulation. EPA said the update was needed to address "ambiguities, inconsistencies, gaps, and a lack of flexibility" in the original 1980 regulation. The groups suing, which include the American Petroleum Institute, the American Chemistry Council and the American Forest & Paper Association, did not outline their legal complaint in their initial complaint.

E&E News

<http://www.eenews.net/greenwire/2017/03/10/stories/1060051299>

Pruitt's political friends come to lobby

By Kevin Bogardus 3/10/17

Associates from U.S. EPA Administrator Scott Pruitt's political days in Oklahoma have come to K Street.

Glenn Coffee and Crystal Coon began lobbying this week for QuikTrip Corp., a convenience store and gas station chain headquartered in Tulsa, Okla., on the renewable fuel standard, according to [lobbying disclosure records](#) released by the Senate.

Coffee served in the Oklahoma state Senate with Pruitt as well as in Oklahoma Republican Gov. Mary Fallin's administration, with Coffee serving as secretary of state and Pruitt as attorney general.

Coon served as chief of staff for Pruitt when he took office as attorney general. She has continued to work with Pruitt, consulting for his federal and state political committees.

Coffee too has been working with Pruitt. His law firm, Glenn Coffee & Associates, has done election law compliance work for Pruitt's state campaign.

The lobbying registration shows both are representing QuickTrip at Coffee's consulting firm, the Coffee Group. The convenience mart chain is both Coffee and Coon's first federal lobbying client, according to records.

"I plan to lobby on behalf of interests that I care about and that share a pro market, pro energy, pro environment vision," Coon said in a statement emailed to E&E News.

QuikTrip has just gotten into the Washington lobbying game. Records show that the company also hired Steptoe & Johnson LLP in July last year and has spent \$40,000 on lobbying so far.

As EPA chief, Pruitt has a big part to play in the renewable fuel standard. The agency administers the program, deciding how much ethanol is to be blended into gasoline.

QuikTrip has been in touch with the agency over its concerns with the RFS. It filed [comments](#) last month with Pruitt at EPA, attaching a letter sent earlier that said changing the program's so-called point of obligation would be "anti-consumer."

The Trump administration's actions on the RFS are being closely watched. A deal — supposedly engineered by Carl Icahn, the investor and adviser to President Trump — that would have shifted responsibility for renewable fuel mandates from refineries to fuel blenders fell apart earlier this week ([Greenwire](#), March 8).

Quartz

<https://qz.com/929392/on-scott-pruitt-and-co2-what-happens-when-science-becomes-a-matter-of-belief/>

On Scott Pruitt and CO2: What happens when science becomes a matter of belief?

By Zoe Schlanger 3/10/17

Speaking to CNBC on March 9, Scott Pruitt, the current head of the US Environmental Protection Agency, crossed a threshold even most climate “skeptics” would consider fringe: He said he did not believe that carbon dioxide is the primary driver of global warming.

This isn’t up for debate. An increase of carbon dioxide, or CO₂, in the atmosphere has been proven by copious scientific evidence to be the primary driver of climate change.

Even people who reject the scientific consensus on global warming tend not to go quite that far. They may believe, as [both Rex Tillerson \(current Secretary of State\) and Rick Perry \(current Secretary of Energy\)](#) say they do, that climate change is real but that we cannot predict “with precision” just how much humans are to blame, or whether it’s bad enough to do something about (though both of those statements are also scientifically untrue). Climate deniers with more extreme views say global warming is all part of a natural fluctuation that humans couldn’t cause or stop if they wanted to (also untrue).

But Pruitt went a leap further. “Do you believe that it’s been proven that CO₂ is the primary control knob for climate?” asked Joe Kernan, co-host of the CNBC morning show “Squawk Box.”

“No,” Pruitt replied. “I think that measuring with precision human activity on the climate is something very challenging to do and there’s tremendous disagreement about the degree of impact, so no, I would not agree that it’s a primary contributor to the global warming that we see.”

Scientists have known for a long time that CO₂ is, in fact, the primary driver of our current warming trend. Other greenhouse gases, like methane and ozone, also contribute. But CO₂ is way out in front of all of them in terms of how much it increases “radiative forcing”—in other words, how much it increases the difference between the sunlight absorbed by the Earth and the energy our planet radiates back into space.

In fact, scientists at the EPA, who are now Pruitt’s employees, are very, very sure about this. They used air bubbles trapped in ice cores to track measurements of atmospheric carbon dioxide through 800,000 years of Earth’s history.

See that spike in the graph on the left? That’s CO₂ levels soaring far above anything resembling natural levels. CO₂ concentrations have increased 40% over pre-industrial levels.

“Atmospheric carbon dioxide measurement precision is accurate enough to know that today’s levels are not natural,” Brenda Ekwurzel, a senior climate scientist at the Union of Concerned Scientists, wrote in a blog post after the CNBC clip was released.

To take it a step further, scientists can *also* say with certainty that all this CO₂ was released into the atmosphere by human activity, namely burning things—like coal, oil, and natural gas. Scientists can actually identify how much atmospheric CO₂ is made up of CO₂ from burning fossil fuels based on the ratios of certain carbon isotopes, Ekwurzel noted.

“With a very high level of confidence, the increase in CO₂ emissions from fossil fuel burning and those arising from land use change are the dominant cause of the observed increase in atmospheric CO₂ concentration,” scientists wrote in a 2013 Intergovernmental Panel on Climate Change assessment report.

In other words, the climate is warming, and human activity is the primary reason. The idea that this is uncertain is contrived.

It's easy to believe this reality, as long as you believe in climate science as a field of scientific inquiry. But the majority of Americans don't. A Pew poll from 2016 found that only 33% of those surveyed feel climate scientists "understand very well" whether climate change is occurring at all, and only 28% said scientists know the cause of climate change. Even fewer—27%—believe that "almost all" scientists say climate change is human-caused—even though in reality, they do. Only 39% of Pew survey respondents said they have "some" trust in climate scientists to provide a "full and accurate portrait of the causes of climate change."

With such an extreme lack of confidence in the institution of climate science itself, the fact that Pruitt is factually wrong may fall on deaf ears—or more likely, reinforce a widely held falsehood.

"It is worth pointing out that administrator Pruitt's blatant denial of well-established scientific facts is more than just egregious," Ekwurzel wrote. "It is also at odds with his testimony in his confirmation hearing and in no way changes his legal obligation to regulate carbon dioxide as a pollutant."

PolitiFact

<http://www.politifact.com/truth-o-meter/statements/2017/mar/10/scott-pruitt/epa-head-scott-pruitt-says-carbon-dioxide-not-prim/>

EPA head Scott Pruitt says carbon dioxide is not 'primary contributor' to global warming

By Lauren Carroll 3/10/17, 11:10AM

The new head of the Environmental Protection Agency Scott Pruitt says carbon dioxide is not a primary contributor to global warming.

"Do you believe that it's been proven that CO2 is the primary control knob for climate?" CNBC anchor Joe Kernen asked Pruitt in a March 9 interview.

"No, I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact," Pruitt responded. "So no, I would not agree that it's a primary contributor to the global warming that we see."

Scientists around the globe generally conclude that human activity is the leading cause of climate change because humans have exacerbated the Earth's greenhouse effect, mainly by producing carbon dioxide.

Compare Pruitt's statement with one on [his agency's website](#), for example: "It is extremely likely that human activities have been the dominant cause of that warming," and then, "Carbon dioxide is the primary greenhouse gas that is contributing to recent climate change."

Environmental activists opposed Pruitt's nomination, in part because in his former role as attorney general of Oklahoma, Pruitt [sued the EPA more than a dozen times](#) over air and water pollution regulations.

However, Pruitt has said he believes in climate change and that human activity is contributing to that change, though he is unconvinced of the extent of human-caused factors.

"The climate is changing, and human activity impacts that," he said in his Senate confirmation hearing.

When we reached the EPA for comment, they did not provide us with information to back up Pruitt's claim.

The normal environment of the earth is that several types of gas stick in the atmosphere and trap excess heat, including carbon dioxide, water vapor, methane and nitrous oxide, making a natural "greenhouse." Since the Industrial Revolution in the early 1800s, humans have changed the composition of the greenhouse — leading to climate change — by releasing significant amounts of carbon dioxide into the air primarily through burning fossil fuels.

"Pruitt is incorrect. CO₂ is a primary contributor to global warming. That fact is not in dispute among climate scientists," said Anne Slinn, executive director for research of the Center for Global Change Science at the Massachusetts Institute of Technology.

This chart from the National Oceanic and Atmospheric Administration shows that even though the earth has experienced fluctuations in carbon dioxide levels throughout its history, there's more carbon dioxide now than there has been in at least 400,000 years.

The previous peak carbon dioxide concentration was about 300 parts per million, 300,000 years ago. Today, the count is more than 400 parts per million.

By the end of the 1970s, before global warming was readily apparent, scientists had already formed a consensus that human-produced carbon dioxide would cause the climate to change. And by the mid-1990s, scientists understood that global warming had already occurred over the

past 100 years, and carbon dioxide was a substantial cause, said Ralph Keeling, director of the Scripps CO2 Center at the University of California, San Diego.

"Administrator Pruitt's statement means that he does not accept the overwhelming scientific consensus," said Stephen Pacala, co-director of Princeton University's Carbon Migration Initiative, pointing to a 2013 report out of the Intergovernmental Panel on Climate Change.

We reached numerous climate experts, all of whom reiterated the view that Pruitt's claim is contrary to the prevailing scientific thought. For a perspective outside the norm, we also reached out to Roger Pielke Sr., an emeritus professor of atmospheric science at Colorado State University, who has argued that carbon dioxide is one of many human-caused factors contributing to long-term changes in the climate, but it's not the dominant one. For example, the release of black carbon (soot) or land use changes might have a larger effect on the climate relative to carbon dioxide than is currently believed.

In Pielke's view, a more accurate version of Pruitt's statement would be: "I would not agree that CO2 is the only contributor to changes and longterm variations in climate."

Our ruling

Pruitt said carbon dioxide is not "a primary contributor to the global warming that we see."

The prevailing scientific consensus is that human production of carbon dioxide since the Industrial Revolution is a leading cause of climate change. Some scientists may quibble over how much of the change can be attributed specifically to carbon dioxide, but there is no doubt that it plays an important role.

We rate Pruitt's claim False.

AP

<http://bigstory.ap.org/article/bcf3299ea77b4afd8bbc4750978cb28d/volkswagen-pleads-guilty-us-diesel-emissions-scandal>

Volkswagen pleads guilty in US diesel emissions scandal

By Tom Krisher and Ed White 3/19/17, 10:55AM

DETROIT (AP) — Volkswagen pleaded guilty Friday to conspiracy and obstruction of justice in a brazen scheme to get around U.S. pollution rules on nearly 600,000 diesel vehicles by using software to suppress emissions of nitrogen oxide during tests.

The German automaker has agreed to pay \$4.3 billion in civil and criminal penalties — the largest ever levied by the U.S. government against an automaker — although VW's total cost of

the scandal has been pegged at about \$21 billion, including a pledge to repair or buy back vehicles.

U.S. regulators confronted VW about the software after West Virginia University researchers discovered differences in testing and real-world emissions. Volkswagen at first denied the use of the so-called defeat device but finally admitted it in September 2015.

Even after that admission, company employees were busy deleting computer files and other evidence, VW's general counsel Manfred Doss acknowledged to U.S. District Judge Sean Cox.

Summing up the scandal, Assistant U.S. Attorney John Neal said it was a "calculated offense," not a "momentary lapse of judgment."

Although the cost is staggering and would bankrupt many companies, VW has the money, with \$33 billion in cash on hand. Volkswagen previously reached a \$15 billion civil settlement with U.S. environmental authorities and car owners.

Under its agreement, VW must cooperate in the investigation and let an independent monitor oversee compliance for three years. Separately, six Volkswagen employees face criminal U.S. criminal charges in the scandal.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-10/only-congress-can-stop-california-s-emissions-rules>

Only Congress Can Stop California's Emissions Rules

By Noah Feldman 3/10/17, 9:00AM

The Trump administration is considering a new assault on American legal and constitutional structures by taking on federalism -- and vehicle emissions. Specifically, the Environmental Protection Agency reportedly will try to revoke a waiver that California has enjoyed for 45 years, which allows the state -- and any state that wants to copy it -- to regulate tailpipe emissions more stringently than the federal government does.

A revocation by President Donald Trump and the executive branch is almost certainly unlawful. The Clean Air Act expressly says that California must be granted the waiver if its emissions rules are "at least as protective of public health and welfare" as the federal government's. That means anything more protective must be granted. If the revocation happens, there is sure to be a protracted legal fight.

The stakes are high for the environment. Because 15 states follow California, and cars sold in states bordering those states may comply with California rules, 130 million people are potentially affected.

But the stakes are also high for the federal design of the Constitution. The California waiver provision reflects the delicate balance between states and the federal government in environmental regulation. Revoking it falls within Congress's power, not the president's.

The Clean Air Act's waiver provision is unusual -- and it flows from federalism principles.

Under the Constitution, as a default, both states and the federal government share the capacity to regulate most activities. The states have an inherent regulatory power, known as the "police power." The federal government gets its power to regulate from Congress's authority to make laws on matters affecting interstate commerce. State and federal power can overlap, as in the case of the punishment of drug crimes.

Because federal law is the supreme law of the land, according to the Constitution, federal law trumps state law when the two conflict.

Congress has a special power that allows it to deal with that conflict by barring states from regulating in areas where they might interfere with federal rules. This power is called "preemption": Congress "preempts" state law when it has occupied the whole field of regulation to the exclusion of the states. Sometimes Congress says expressly that it's preempting state laws; sometimes the preemption is implicit.

The Clean Air Act is an example of federal preemption -- in part. Section 7543 of the law says that no state "shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles." That includes "certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle."

Yet as soon as the law takes away states' regulatory power, it restores it to California. The law says the EPA administrator "shall ... authorize California to adopt and enforce standards." It's up to California (not the federal government) to determine "that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards."

The only ways to block California from using its own standard are if the EPA administrator determines that the California rules are arbitrary and capricious -- which they aren't -- or if "California does not need such ... standards to meet compelling and extraordinary conditions." So long as Los Angeles has smog, the conditions for restricting emissions are going to be compelling.

The historical reason for this design is that California had been regulating emissions long before the federal government got into the act.

But the structural reason is that California had the influence in Congress to make sure its regulatory power was preserved even after the Clean Air Act was passed. The true balance between state and federal authority is worked out in Congress, where the states can have a real impact on lawmaking.

Thus, it's not up to the president to change the balance of power -- particularly not when

Congress has already spoken.

And that's what Trump's EPA is doing by considering the revocation of the waiver that has been in place since just after the law was passed in 1970.

There is some existing legal uncertainty about whether the waiver may be used by California to regulate greenhouse-gas emissions. The George W. Bush administration said it couldn't, but before that claim could be reviewed by the courts, Barack Obama was elected and granted the waiver.

The best reading of the law is that it does extend to greenhouse gases. But what's more important is for the executive branch to recognize that Congress has preserved California's authority, and that it should respect that decision.

Otherwise, the president without Congress would be able to change the state-federal balance. And that's unconstitutional.

Wall Street Journal

<https://www.wsj.com/articles/volkswagen-pleads-guilty-to-criminal-charges-in-emissions-cheating-scandal-1489161238>

Volkswagen Pleads Guilty to Criminal Charges in Emissions-Cheating Scandal

By Mike Spector and Mike Colias 3/10/17, 11:42AM

Volkswagen AG pleaded guilty to criminal charges for rigging diesel-powered vehicles to cheat on government emissions tests, capping the final significant U.S. legal settlement expected in a long-running deception that hammered the German auto company's reputation and finances.

In an unprecedented resolution for a criminal case involving an automotive company, Volkswagen pleaded guilty in a Detroit federal court Friday to conspiracy to defraud the U.S., commit wire fraud and violate the Clean Air Act; obstruction of justice; and import violations. The auto maker's plea agreement includes a \$2.8 billion criminal fine and resolves a longstanding Justice Department probe.

Volkswagen has also agreed to an additional \$1.5 billion civil penalty to settle the U.S. investigation. That is on top of previous civil settlements with consumers, regulators, dealers and state attorneys general in the U.S. that could cost Volkswagen more than \$20 billion. Some current and former Volkswagen executives and employees were separately charged in the criminal probe, but weren't the subject of Friday's hearing.

Volkswagen General Counsel Manfred Döss entered Friday morning's guilty plea on the company's behalf before U.S. District Judge Sean F. Cox. The company was arraigned on the charges earlier before a magistrate judge in a separate hearing. Volkswagen signed a plea agreement with U.S. prosecutors in January, weeks before Friday's formal court hearings.

Judge Cox said he would forego sentencing until April 21. That final step would formalize

Volkswagen criminal penalties that include the assignment of an independent monitor to audit its regulatory compliance practices for at least three years.

"Volkswagen's offenses are very, very, very serious," the judge said. "I just want more time to reflect and study."

The guilty plea codified Volkswagen's admission to conspiring for nearly a decade to deceive U.S. officials with illegal software known as defeat devices that allowed nearly 600,000 diesel-powered vehicles to pass emissions tests and then pollute beyond legal limits on the road.

The U.S. Environmental Protection Agency disclosed Volkswagen's deception in September 2015 and said the company's vehicles spewed toxic tailpipe emissions up to 40 times above allowable levels. Volkswagen admitted to installing the problematic software on some 11 million vehicles globally, sparking government hearings, litigation and investigations around the world targeting the company and many of its senior executives.

Volkswagen's emissions fraud was "a very well thought out, calculated, well-planned offense," said Assistant U.S. Attorney John Neal during Friday's court hearing, adding the conspiracy reached the "highest levels of the corporation."

Mr. Neal added that the government could have fined Volkswagen up to \$34 billion, but assessed a lower figure given the auto maker's cooperation with the investigation, previous large civil settlements and efforts to compensate consumers affected by its deception.

Mr. Döss said during court proceedings that some Volkswagen supervisors and employees destroyed documents and files when learning of the emissions probe, and that the auto maker had deceived U.S. environmental regulators and customers.

A federal grand jury separately indicted seven Volkswagen executives and employees for their role in the emissions fraud. Many of them are believed to reside in Germany and it isn't clear whether they will travel to the U.S. to face charges.

U.S. authorities arrested one of them, Oliver Schmidt, the former head of Volkswagen's Environment and Engineering Office in Auburn Hills, Mich., in January at Miami International Airport as he prepared to travel home to Germany. After being transferred to Detroit, he pleaded not guilty to criminal charges and is being held at an area jail awaiting trial.

An engineer who pleaded guilty to criminal conduct for helping Volkswagen cheat on emissions tests, James Liang, is scheduled to be sentenced in May.

Former Volkswagen Chief Executive Martin Winterkorn resigned in the wake of the emissions crisis, and the company then suffered sales declines and financial losses, in part due to freezing affected vehicles on U.S. dealer lots. But the auto maker reported a profit for 2016 and passed Toyota Motor Corp. as global car-sales leader. Volkswagen recently curbed executive pay amid investor ire emanating from the emissions deception.

Still, the corporate criminal case against Volkswagen represented the harshest punishment yet stemming from an unprecedented government crackdown on automotive firms for safety and environmental lapses. Along with stiff financial penalties, prosecutors have been seeking charges against executives and employees implicated in auto-industry scandals.

Takata Corp. in January pleaded guilty to criminal wrongdoing and agreed to \$1 billion in penalties to resolve an investigation of the Japanese supplier's handling of rupture-prone air bags linked to numerous death and injuries and historic recalls. Three executives were also charged.

Toyota and General Motors Co. in recent years settled criminal cases resulting from safety transgressions without pleading guilty to charges and suffering smaller financial penalties than that to which Volkswagen agreed.

In the waning days of the Obama administration, U.S. environmental regulators accused Fiat Chrysler Automobiles NV of using emissions software on diesel-powered Jeep Grand Cherokee sport-utility vehicles and Ram pickup trucks that allowed them to spew illegal levels of pollution. Officials stopped short of saying the software was designed to cheat emissions tests as Volkswagen's did. The Italian-U.S. auto maker has denied wrongdoing.

—Christina Rogers contributed to this article

Automotive News

<http://www.autonews.com/article/20170309/OEM/170309755/vw-pleads-guilty-to-3-felonies-in-deal-to-settle-u-s-emissions-case?cciid=email-autonews-blast>

VW pleads guilty to 3 felonies in deal to settle U.S. emissions case

By Larry P Vellequette 3/10/17, 10:00AM

DETROIT -- The largest automaker in the world is now officially a felon in the United States, but its sentencing will have to wait.

Volkswagen Group pleaded guilty Friday in U.S. District Court here to three felonies under a plea agreement: conspiracy, obstruction of justice and introducing imported merchandise into the United States by means of false statements.

The guilty pleas accepted by District Judge Sean Cox settle claims by the EPA and U.S. Customs and Border Protection for VW's importation of almost 590,000 turbodiesel vehicles that violated clean air regulations.

However, the judge said at the end of an 70 minute hearing that he wanted more time to consider the settlement's \$4.3 billion in fines and other actions given the "serious nature" of the crimes.

Friday was the first time the company has pleaded guilty to criminal conduct in any court in the world, a company spokesman told Reuters.

The settlement, first announced in January, calls for VW to pay \$4.3 billion in penalties and for

the automaker to continue to fully cooperate with federal and state investigators. The settlement also would subject VW to an independent monitor for at least three years as well as a number of other consultations to ensure that it will comply with the law in the future.

Cox scheduled a hearing on sentencing for April 21 at 9:30 a.m.

If VW hadn't settled, it would have faced potential fines in the cases of between \$17 billion and \$34 billion.

Explanation of charges

In court today, VW General Counsel Manfred Doess initially stood mute before District Magistrate Judge Anthony Patti as the company was arraigned prior to entering its plea. However, in a hearing about a half hour later before Cox, Doess entered guilty pleas on behalf of VW to all three felony counts.

Doess has been VW general counsel since Jan. 1, 2016. Cox questioned Doess for several minutes, verifying his age, his position and his education, and whether the corporation had availed itself of outside counsel.

Cox then spent several minutes going through the charges against the automaker: how it had conspired to defraud the government, how it had obstructed justice by concealing defeat devices from regulators and destroying evidence, and how it had imported the illegally polluting turbodiesels to the United States beginning in 2009.

After fully explaining the charges, the law and the plea agreement between VW and the U.S. Justice Department to Doess, Cox accepted VW's guilty pleas at 10:36 a.m., 50 minutes after the hearing began.

Asked by Cox to explain what the company had done, Doess was clear: "VW is pleading guilty to the information because it is guilty to all three counts," Doess said. He went on to describe what VW had done and where and how it had flouted the law.

After the plea was entered, attorneys for the government and VW talked about the company's efforts to "make things right," and how it has cooperated with the probe, including providing information that it has discovered during an ongoing internal investigation "in real time" to government investigators.

The automaker's use of "defeat device" software to skirt emissions tests was first discovered in 2014 by researchers at West Virginia University who tested turbodiesels from VW, Audi and BMW. The researches discovered that the VW and Audi turbodiesels emitted many more times the levels of NOx as were allowed when on the road, but complied when they were being tested in the laboratory.

However, it wasn't until September 2015 that VW finally admitted to using the software to cheat U.S. emissions tests. The ensuing scandal ignited a global firestorm, resulting in almost \$24

billion in costs just in North America.

VW's legal peril with the U.S. government may be over, but its buybacks continue, as does civil litigation in the U.S. and criminal investigations elsewhere around the globe, including in its German homeland. More than 11 million vehicles are affected globally.

As of Feb. 18, the most recent report available, VW had completed 137,985 closings and paid out \$2.89 billion to owners and current lessees.

VW is processing about 15,000 closings per week and is expected to continue the pace "for the foreseeable future," according to the latest report filed by the independent claims supervisor.

VW cooperating

As part of the plea agreement, VW must "fully cooperate" with ongoing investigations. So far, the U.S. Justice Department says, the automaker is doing so.

In the plea agreement released in January, the government says VW has already "gather[ed] substantial amounts of evidence and perform[ed] forensic data collections in multiple jurisdictions" and interviewed hundreds of witnesses in the U.S. and overseas, sharing that information with investigators.

The government also credited VW for recovering numerous documents that were deleted by employees after VW's emissions cheating was discovered in 2014. It also credited VW for improving its whistleblower system in the wake of the scandal and for making other changes to its corporate structure to better guard against a similar scandal in the future.

The automaker will hold its annual press conference next week in its home in Wolfsburg, Germany, where top executives are expected to comment more fully on the ongoing scandal.

Huffington Post

http://www.huffingtonpost.com/entry/epa-environmental-justice-cuts_us_58c18d5ee4b054a0ea68ad0c

Here's What We Lose If We Gut The EPA's Environmental Justice Work

By Joseph Erbentraut 3/10/17, 11:21AM

With the abrupt resignation of its leader, the fate of the Environmental Protection Agency's [environmental justice program](#) appears to be practically sealed.

On Thursday, InsideClimate News reported that Mustafa Ali, who has been heading the EPA's environmental justice work and helped found the program in 1992, had resigned from his post.

Ali told the site in an interview that he sees the work he was part of as critical to the EPA's overall function, but indicated that he doesn't believe the agency's current leaders share that belief.

"My values and priorities seem to be different than our current leadership and because of that I feel that it's best if I take my talents elsewhere," Ali said.

The program, which helps disadvantaged communities push back against industry pollution, appears bound for a drastic, 78-percent funding cut according to preliminary Office of Management and Budget numbers reported by The Oregonian and confirmed by other media outlets last week. The cuts would essentially gut the program, reducing its funding from \$6.7 million to just \$1.5 million.

In his resignation letter, shared widely across Twitter on Thursday, Ali pleaded with EPA chief Scott Pruitt to continue to support the office. Ali credited it with bringing together community groups, government and industry interests "to find collaborative solutions to many of the country's most serious environmental and public health issues and concerns" in more than 1,000 communities over the course of his time there.

"I strongly encourage you and your team to continue promoting agency efforts to validate these communities' concerns, and value their lives," Ali wrote in the letter.

EPA officials did not respond to a request for comment on Ali's resignation, but Lisa Garcia, who previously headed up the agency's environmental justice work, said she was "outraged" by the news.

"I think this shows that this administration has no idea how valuable the office of environmental justice is," Garcia, who left the EPA in 2014 to work at Earthjustice, a nonprofit environmental advocacy group, told The Huffington Post.

The program has operated for years with a shoe-string staff and a tiny budget — just 0.08 percent of the agency's \$8 billion budget, which itself represented just 0.22 percent of federal spending last year.

So, Garcia added, if the agency is going to be tasked with doing more with less, the environmental justice program should be emulated — not eliminated.

“This decision shows how fiscally irresponsible they are and how they are absolutely making uneducated decisions,” Garcia said. “They aren’t looking at the facts and they really don’t care about people because this is the one program that focuses on some of the most vulnerable communities. It smacks of elitism and racism if this is where they think the cuts can come from.”

The EPA’s environmental justice program, which was originally called the environmental equity office, was established in 1992 following the release of a series of damning reports that found industry polluters like toxic waste sites were disproportionately located in low-income communities of color when compared to wealthier, whiter neighborhoods.

The program aimed to address the problem of minority and low-income communities’ heightened exposure to these pollutants, providing small grants to help communities both create and implement local solutions to environmental justice concerns where they live.

It’s had many achievements. In just one example, a community organization in Spartanburg, South Carolina, helped a neighborhood surrounded by Superfund sites and Brownfields leverage a \$20,000 EPA grant into cleanup efforts that led to more than \$270 million in investments like community health centers, affordable housing, a recreation center, gardens and green space.

In a 2015 agency blog post, former EPA Administrator Gina McCarthy called the Spartanburg effort “a shining beacon of what’s possible when folks impacted by community decisions have a seat at the table.”

Garcia cited other examples of the program’s success: A small EPA environmental justice grant helped the residents of Tonawanda, New York, study the level of toxic benzene in their air — information that they used to force an industry polluter to cut its emissions, resulting in improved air quality. Another similar grant helped Asian-American groups in Seattle develop stormwater retention solutions that helped them revitalize the city’s Chinatown district with urban gardens.

Improvements like these don't appear to be a priority for the EPA under the Trump administration. Though Pruitt has commented in recent interviews that he will push back against certain agency cuts proposed by the OMB, he has not named environmental justice among them.

This would provide a stark contrast to the way in which environmental justice was prioritized at the EPA under the Obama administration, most plainly evidenced by the long-term goals set forth in the Plan EJ 2014 and 2020 EJ Action Agenda reports that mapped out a comprehensive, agency-wide environmental justice strategy.

The EPA clearly has a long way to go in that regard. A report released last year by the U.S. Commission of Civil Rights found that the agency has a long track record of extremely delayed responses to environmental justice concerns. A separate report from the Center for Public Integrity found that the agency has been "chronically unresponsive" to such complaints.

Despite the previous administration's mixed record on environmental justice, advocates fear that the program's gutting will cause the agency to backtrack on the progress that has been made at a time when situations like the water crisis in Flint, Michigan, have shown how high the stakes in these matters can be.

Still, the cuts did not come as a surprise to some environmental justice advocates like Kay Cuajunco, a spokeswoman for the California Environmental Justice Alliance.

"We knew that environmental justice communities — low-income communities and communities of color — would be the first and worst hit under the new administration," Cuajunco told HuffPost. "They have always been disproportionately impacted by pollution, and now the scale of attack will be bigger and the few backstops we've had will be gone."

Other advocates are already preparing to push back against the cuts. And it starts with holding Pruitt to remarks he made during his Senate confirmation process, according to Michele Roberts, national co-coordinator of the Environmental Justice Health Alliance nonprofit.

In response to questions from Sen. Cory Booker (D-N.J.), Roberts noted, Pruitt indicated that he recognized the importance of environmental justice efforts and planned to "protect human health and the environment for all Americans."

“We would think that whatever these programmatic changes he’s proposing would uphold the words that he listed off that he would honor during his hearing,” Roberts told HuffPost. “If he’s committed to all those things, the environmental justice program is not on the chopping block. But I’m just using his words.”

The OMB’s proposed cuts to the EPA total about 25 percent of its overall budget and would eliminate 1 in 5 of the agency’s employees. Some programs — like beach water quality state grants and Great Lakes, Chesapeake Bay and Puget Sound restoration efforts— are essentially eliminated in the proposal, while climate and Brownfield programs are also slated for major cuts.

Many of these cuts beyond the environmental justice program would also disproportionately impact lower-income communities and communities of color, environmental groups have noted.

“While this ‘zero out’ strategy would impact nearly every community in the United States, a close examination shows the burden of these cuts will fall hardest on the health of low-income Americans and people of color,” Travis Nichols, Greenpeace USA spokesman, said in a previous statement. “This is environmental racism in action.”

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EPA Will Consider All Options as It Looks at Budget, Pruitt Says

By Nushin Huq

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The EPA is in the early stages of talking to the White House about its budget, but these discussions have been largely positive, agency administrator Scott Pruitt said.

The Environmental Protection Agency is looking at everything from downsizing regional offices to empowering states to take lead roles in regulating air and water pollution, according to Pruitt.

“What's key is that this is the beginning of the process,” he told Bloomberg BNA March 9 ahead of his speech in Houston at IHS Markit's CERAWeek, an annual energy conference. “It's something that plays out over a period of time.”

A recent proposal from the Office of Management and Budget calls for a 20 percent cut to EPA staff and slashing the agency's budget by 25 percent. Under the proposed spending plan, the EPA could reduce grants to states by 30 percent in fiscal year 2018, putting about 20 grants on the chopping block. There also have been reports that the agency will reduce the number of regional offices from 10 to eight.

The White House budget proposal is set to be released next week.

Regional EPA offices play an important role, Pruitt said, calling them an outpost that's there to help inform and formulate decisions in Washington. All that will be reviewed when the agency decides how many regional offices should remain operational.

Pruitt said he wants states to take a lead role in regulating air and water pollution and the federal government to play a partnering role. Most states have their own environmental regulator, which has expertise and resources that federal regulators don't have, he said.

There's determination, commitment and a belief across-the-board on the importance of partnering with states, Pruitt said when asked about safeguarding EPA state and tribal grants. He didn't expand on whether those grants will be reduced or by how much.

Another area of interest are more than 1,300 Superfund sites, according to Pruitt.

“We're going to come in and show true tangible environmental benefits and getting those sites cleaned up,” he said. “There's also the Brownfields Program, a variation of that, local community level.”

Senate Confirmations

Pruitt hopes the Senate confirmation process to fill EPA positions will begin soon, though he didn't offer a time frame. There are many positions, not just within the agency, that require Senate confirmation, making it difficult to predict when positions such as EPA general counsel and deputy administrator will begin.

“There are many names that I think are in the hopper process,” Pruitt said. “We'll work to get our names there and process those in a good, timely way. We've tried to do all we can to get those names vetted and discussed, evaluated, but it takes a little time.”

Pruitt could fill some positions with transition people and said his focus won't be on whether those individuals are inside the agency or outside, but where they fit in the EPA's mission.

“That's going to be the focal point,” he said.

Clean Power Plan

The U.S. Supreme Court's decision to stay the Clean Power Plan, which limits carbon dioxide emissions from power plants, and its narrowing of the tailoring rule, which set greenhouse gas permitting requirements for large stationary sources of air emissions, provide strong arguments for rolling back the Clean Power Plan, Pruitt said.

An administrator just needs reasonable basis to withdraw a rule, he said.

“The Supreme Court said it's [Clean Power Plan] likely unlawful,” Pruitt said. “To issue a stay, the legal standard, the two part standard, the most important in my view, is the court's determination that a particular decision is likely. And in this instance, likely unlawful.”

The stay provides reasonable basis, and the agency's resources are better spent in other ways, he said.

Infrastructure

Pruitt has been in several meetings at the White House to discuss water infrastructure, something he is excited about, he said.

“The president has asked me to serve on a group of Cabinet officials with respect to water infrastructure,” Pruitt said. “I was in a meeting as recent as yesterday with a group of CEOs from across the country. The president acknowledges that the infrastructure package is not just road and bridges.”

Conference Speech

In the past couple of years, there's been a mind-set that you can't be pro-energy and pro-environment, Pruitt told conference attendees during a luncheon address. That simply is not true. One can be pro-growth and pro-environment, he said.

There's been a disregard for process by federal agencies for the past couple of years, according to Pruitt. Litigation has driven the regulatory agenda, he said by having lawsuits and consent agreements filed instead of rulemaking.

“The sue-and-settle practice through consent decrees has been something that the EPA and other agencies have used, I think, to the detriment of the people that we serve,” Pruitt said. “That will change under our administration.”

Other agencies, such as in health care and finance, have used guidance documents to engage in rulemaking. That abuses the process that Congress has set up, he said. “We're going to respect process,” Pruitt said.

Part of the problem is that Congress, in some instances, has not done its job, he said.

“It puts an agency in the executive branch in a difficult position because you don't have a framework. They haven't spoken,” Pruitt said. “Each of the branches needs to do its job.”

Methane

The EPA withdrew its request for information sent to oil and gas companies on methane emissions because first there needs to be a discussion around methane, how to better capture it and ensure that it's used in a productive way, Pruitt told IHS Markit Vice Chairman Dan Yergin, in a question-and-answer after his speech.

“Sometimes, regulators don't realize that methane is valuable,” Pruitt said. “It needs to be captured and used. So it's not waste per se. Now it can cause harm to the environment; it can cause harm to individuals.” He said it was premature to ask for information on methane before having a discussion about it.

Power

“Regulators shouldn't use their power to pick winners and losers,” Pruitt told Yergin. “We ought to set standards. We will set standards that will better inform you as you make decisions.”

The baseload energy is important to the grid, and consumers pay for the investment, Pruitt said. Government interference on what type of generation to promote could lead to stranded costs that are passed on to consumers.

The agency should set goals and let industry figure out how to achieve them, Pruitt said. Some

current regulations are examples of regulatory over-reach, like the Clean Power Plan, he said.

“What can we do to provide better outcome for air attainment,” Pruitt said. “The air attainment issues, as far as the NOx program, we're at 40 percent now, what should we be five years now?”

Instead of making rules, the agency should make goals and work with industry on how to achieve those goals, he said.

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House Panel Advances Science, Transparency, EPA Science Board Bills

By Rachel Leven 3/10/17

The EPA would have to publicly release more data, limit use of certain science, and alter the makeup of a board that gives the agency scientific advice under two bills a House committee advanced on March 9.

The House Science, Space and Technology Committee approved by a 17-12 margin the Honest and Open New EPA Science Treatment Act of 2017 ([H.R. 1430](#)), a bill focused on what science the agency must make public or limit use of in its decision-making.

The committee also approved the Environmental Protection Agency Science Advisory Board Reform Act of 2017 ([H.R. 1431](#)), which aims to make the agency's Science Advisory Board a transparent and “well-balanced expert panel,” by a 19-14 vote.

House Republicans said at the mark-up that these bills are needed to restore transparency in the Environmental Protection Agency's use of science in its decisions, judgments that Republicans say have had real economic consequences.

However, House Democrats argued that the bills wouldn't improve science in EPA decisions, but would slow the regulatory process unnecessarily and dangerously exclude important science and scientists with expertise on the issues.

Path Forward

Both bills are similar to two House bills that passed the lower chamber and died in the Senate last session.

A spokesman for House Majority Leader Kevin McCarthy (R-Calif.) told Bloomberg BNA in an email that the leader's office is aware of the bills, but a vote has yet to be scheduled.

Sen. John Barrasso (R-Wyo.), the new Senate Environment and Public Works Committee chairman, also seems open to working on these issues.

“The House Science Committee is continuing to work to improve science at the EPA. EPA's science should be open and transparent and the Senate Environment and Public Works Committee will continue to work to achieve these goals,” a spokesman for the Senate committee's majority told Bloomberg BNA in an email.

Both House bills are supported by groups such as the American Chemistry Council, the U.S. Chamber of Commerce and the American Farm Bureau Federation. They are opposed by groups that include the American Lung Association, the Environmental Defense Action Fund and American Geophysical Union.

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Senate Aide Named a Top Adviser to EPA Head on Climate, Clean Air

By Dean Scott 3/10/17

A top Senate aide's recent move to majority counsel at the Environment and Public Works Committee was only a pit stop: Mandy Gunasekara now heads to the Environmental Protection Agency to advise its new administrator on air and climate issues.

The committee aide will serve as a senior policy adviser in the EPA administrator's office beginning March 20, several Senate aides confirmed to Bloomberg BNA March 9.

Gunasekara is currently majority counsel for the new Environment and Public Works chairman, Sen. John Barrasso (R-Wyo.); her last day with the committee is March 17. She will be among a handful of senior advisers reporting to Scott Pruitt, the former Oklahoma attorney general confirmed to head the EPA.

Pruitt's incoming policy adviser has worked for the environment panel since 2015, when then-Chairman James Inhofe (R-Okla.) named her to serve as the panel's Clean Air Act and Climate Change counsel. Barrasso took the mantle in January—Inhofe had to step down due to term limits Republicans impose on leadership in the Senate—and essentially brought Gunasekara with him as majority counsel.

Gunasekara is the latest former Inhofe aide to go to work for Pruitt, following Ryan Jackson, who will be Pruitt's chief of staff. Andrew Wheeler, another ex-Inhofe aide, is reportedly being considered for the No. 2 job at EPA.

To her Senate and House peers, Gunasekara will always be remembered for her connection to a bit of winter theater on the Senate floor in February 2015. Inhofe tossed a snowball—underhanded and in the direction of Sen. Bill Cassidy (R-La.), who happened to be presiding over the Senate—to protest what he said were overly alarmist warnings of rising temperature and man-made climate change.

Though the idea was Inhofe's, the snowball featured in that stunt was brought to him by Gunasekara, who at the time had only been in her committee post for three weeks. The snowball deed was featured in a segment on “The Daily Show,” then hosted by Jon Stewart, with the video

capturing Gunasekara seated just behind the senator as he cupped the snowball.

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Nonprofit Sues Over EPA-Monsanto Documents

By Tiffany Stecker 3/10/17

A nonprofit organization has launched the latest salvo in a bitter battle over the risks posed by world's most widely used herbicide.

U.S. Right to Know—an organization focused on uncovering industry ties to the science and regulation of food—is suing the Environmental Protection Agency for not releasing documents on glyphosate, better known as RoundUp, under the Freedom of Information Act (*U.S. Right to Know v. EPA* D.D.C., 1:17-cv-00423, 3/09/17).

The organization and its research director, Carey Gillam, said the EPA failed to respond to a public records request under the law in a timely manner. Gillam requested communications between the EPA and Monsanto Co., the manufacturer of RoundUp, regarding a controversial report last year that the EPA published, then quickly took offline.

The complaint was filed March 9 in the U.S. District Court for the District of Columbia.

Gillam requested documents on the EPA's Cancer Assessment Review Committee (CARC) report concluding that glyphosate is “not likely to be carcinogenic to humans,” a finding that contradicts a 2015 assessment from the World Health Organization's International Agency for Research on Cancer.

She filed the request May 12, 2016, nearly two weeks after the EPA inadvertently put the report online. On May 26, 2016, the agency told Gillam that the search for responsive records could

take up to three weeks to complete. More than 200 days have passed since the EPA acknowledged receipt of the request.

The CARC report is part of the agency's periodic review of the herbicide, which began in 2009. Neither the EPA nor Monsanto immediately responded to requests for comment.

Deposition Expected

The lawsuit comes as attorneys representing dozens of plaintiffs in multidistrict litigation against Monsanto ask a judge to uncover confidential documents the company submitted to the court.

The attorneys, whose clients said their exposure to RoundUp resulted in non-Hodgkins lymphoma, also are seeking the deposition of Jess Rowland, a former EPA scientist who resigned shortly after the EPA report was released last year.

U.S. District Court for the Northern California District Judge Vince Chhabria, who heard arguments on the case Feb. 27, is likely to force Rowland's deposition and the release of information from Monsanto (*In re Roundup Prod. Liab. Litig.*, N.D. Cal., No. 3:16-md-02741, motion hearing 2/28/17).

Rachel M. Clattenburg and Adina H. Rosenbaum of the Public Citizen Litigation Group are representing U.S. Right to Know in the lawsuit.

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N.Y. Attorney General Says He Will Fight EPA on Budget Cuts

By John Herzfeld 3/10/17

New York's top legal official says he will use the power of his office to hold the EPA accountable if planned budget cuts hamper the agency's ability to carry out its responsibilities.

Attorney General Eric T. Schneiderman (D), in a March 9 letter to Office of Management and Budget Director Mick Mulvaney and Environmental Protection Agency Administrator Scott Pruitt, said that “massive cuts” laid out in reports of an OMB fiscal year 2018 budget blueprint “would cause direct, immediate, and lasting harm to New Yorkers by eviscerating core public and environmental health programs.”

The letter is an early marker of expected legal resistance by Democratic-controlled states to Trump administration environmental policies.

Schneiderman warned of “tremendous challenges” facing New York municipalities in assuring clean water, citing estimates that some \$74 billion will be needed over the next 15 years for infrastructure maintenance of the state's drinking water supplies and wastewater treatment.

The EPA for years has contributed most of the money that the state provides to municipalities through revolving funds, Schneiderman said. But the budget blueprint's reported plan for a 30 percent cut in state grants would shift “a much greater burden onto cash-strapped municipalities” and put them “at serious risk of violating standards for drinking water safety and clean water,” he said.

Great Lakes Money

He also protested reported plans for a 97 percent cut in EPA funding for the Great Lakes Restoration Initiative, which he called “one of the most widely supported, bipartisan, and successful federal environmental programs.”

The initiative, he said, has been responsible for water quality improvements that have “set the stage” for upstate New York economic development, such as an \$80 million waterfront project on the Buffalo River, “a waterbody once left for dead both ecologically and economically.”

But challenges to Great Lakes water quality continue from untreated waste discharges, algal

blooms and other sources, he said.

He also faulted the budget plan for including “massive proposed cuts to climate change research.”

Schneiderman said that if the EPA “falters in meeting its legal obligations to ensure a clean, safe, and healthy environment for New Yorkers,” he won't hesitate to use “the full power” of his office to force it “to meet those obligations and to hold polluters accountable for violations” of state and federal law.

EPA: Too Early to Comment

An EPA regional spokesman, asked for a response to Schneiderman's letter, told Bloomberg BNA March 9 that the agency wouldn't comment on the budget “at this early point in the process.” In an appearance before the U.S. Conference of Mayors March 3, Pruitt sought to allay concerns about the reported plan to cut state grant programs.

Earlier, Schneiderman joined with attorneys general from the District of Columbia, Hawaii, Massachusetts, Oregon and Vermont in a statement opposing President Donald Trump's Feb. 28 executive order instructing federal agencies to begin the process of rescinding the Waters of the U.S. rule, which clarified which waters and wetlands fall under jurisdiction of the Clean Water Act.

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InsideClimate News

<https://insideclimatenews.org/news/09032017/environmental-protection-agency-scott-pruitt-donald-trump-climate-change>

What Slashing the EPA's Budget by One-Quarter Would Really Mean

By Marianne Lavelle 3/10/17

The Trump Administration's proposed slashing of the Environmental Protection Agency's budget threatens to reduce the agency's resources to levels not seen since its formative days, long before demands from Congress and the public expanded the scope of the agency's missions.

Spending reductions of nearly 25 percent and layoffs of thousands of employees have been floated. [Climate change](#)-related programs have been targeted for outright elimination. But that's also enough to cripple some of the agency's core activities, according to experienced agency veterans and outside experts.

Already, the [EPA](#)'s budget has been cut 7 percent and the agency has lost about 2,000 full-time employees in about five years. The White House budget plan would slash the agency to 12,000 people—setting the agency back to staffing levels of the late Reagan administration. EPA's funding would fall \$2 billion to \$6.1 billion. When inflation is taken into account, that would be its lowest point since the Ford administration.

With cuts on that scale, EPA would have to function with resources comparable to its earliest years, shortly after its founding under Richard Nixon.

That was before the rise of the Superfund toxic dump cleanup program in 1980, the revisions to the Clean Air Act that in 1990 created economy-wide pollution permitting, the changes to the Safe Drinking Water Act that passed Congress overwhelmingly in 1986, and the growing complexity of dealing with pollution from pesticides, dioxins and other chemicals.

"I believe EPA has been run on a shoestring for a long time," said Bruce Buckheit, a former EPA lawyer who worked on pollution enforcement, a central task for the agency. "You're past the point where you have fat to cut."

'Everything We Do Is Related to Climate Change'

Trump's proposed cuts to the EPA, floated in leaked internal memos and vague announcements, appear to [single out climate change programs](#) for cancellation, making good on his campaign promise to "unleash" fossil fuel production. And because so many types of pollution are created by producing and burning fossil fuels, the assault on climate protections could also affect EPA actions that don't address climate change directly—including those that deal with pollutants like smog, soot, acid rain and mercury, or with cleanup operations, or sewage.

The climate cuts would also hit agency research studying ways global warming is affecting EPA's mission to protect the public against day-to-day pollution.

"You can't separate urban air quality and ozone levels from the impacts of weather," said Thomas Burke, an associate dean at the Johns Hopkins Bloomberg School of Public Health. "You can't build a sustainable community anymore without thinking about controlling for very extreme climate events."

He cited the case of Toledo, Ohio's drinking water crisis in 2014, when the water supply was shut down because of a toxic algae bloom in Lake Erie—an acute symptom of a chronic climate disease.

"When you examine why that algal bloom is there," he said, "you have to look at things like water temperatures are different, and storm events that are different."

Burke, who led scientific research at EPA in the final years of the Obama administration, was one of three bipartisan agency veterans to plead last week in the [New England Journal of](#)

Medicine against cuts in environmental protection, including climate action.

One career EPA official who is knowledgeable about the agency's climate programs but asked not to be named, lamented how little is known about the agency's climate work and its connection to clean air and water. "A lot of people look at EPA and they think we do these big global climate models. That's not what we do," the official said. "We focus on how we at EPA are going to be able to meet our requirements for clean air and clean water—what's in the law for us to do—as the climate changes."

The 30 agency scientists who focus on climate, for instance, recently tackled issues such as how worsening wildfires affect air quality; how drinking water treatment is affected by extreme weather; and how to stop the release of toxic contaminants from waste sites during flooding.

"Everything we do [at EPA] is related to climate change, and climate change is related to everything we do," the official said. "It's another stressor, another component of risk we have to account for."

Because it's unlikely other government agencies will take up that effort, and the private sector has no incentive to do it, "that's why we're involved," the official said. "The states turn to us."

The Trump team is working from a blueprint budget developed by the Heritage Foundation, a conservative think tank that rejects the prevailing scientific consensus on climate change and the need to urgently address it, including at the EPA.

Its blueprint would end the effort to regulate greenhouse gases in vehicles, power plants or other man-made sources. It would eliminate the Greenhouse Gas Reporting Program, under which industrial facilities have been reporting their carbon emissions since 2010. It would stop "climate resilience" funding, like the grants to help coastal communities protect and enhance wetlands to protect against sea level rise and storm surge.

How deeply the White House and Congressional leaders end up cutting remains anyone's guess.

Last week EPA staff received a memo from acting administrator Donna Vizian. "We are in the first part of a long engagement between the executive and congressional branches of the federal government to establish our appropriation level for FY 2018," which begins on October 31, she said.

What will happen when funding this year under a temporary stopgap spending bill runs out at the end of April? She said she was in the dark. "The Congressional appropriations staffs are working on this, but we have not seen any recent numbers from their process," she wrote.

Reuters

<http://www.reuters.com/article/us-usa-epa-pruitt-idUSKBN16G1XX>

EPA chief unconvinced on CO2 link to global warming

By Doina Chiacu and Valerie Volcovici 3/9/17, 11:22PM

The new head of the Environmental Protection Agency said on Thursday he is not convinced that carbon dioxide from human activity is the main driver of climate change and said he wants Congress to weigh in on whether CO₂ is a harmful pollutant that should be regulated.

In an interview with CNBC, EPA Administrator Scott Pruitt said the Trump administration will make an announcement on fuel efficiency standards for cars "very soon," stressing that he and President Donald Trump believe current standards were rushed through.

Pruitt, 48, is a climate change denier who sued the agency he now leads more than a dozen times as Oklahoma's attorney general. He said he was not convinced that carbon dioxide pollution from burning fossil fuels like oil, gas and coal is the main cause of climate change, a conclusion widely embraced by scientists.

"I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact," he told CNBC.

"So no, I would not agree that it's a primary contributor to the global warming that we see," Pruitt said. "But we don't know that yet, we need to continue to debate, continue the review and analysis."

Trump campaigned on a promise to roll back environmental regulations ushered in by former President Barack Obama, including those aimed at combating climate change. He framed his stand as aimed at boosting U.S. businesses, including the oil and gas drilling and coal mining industries.

"We can be pro-growth, pro-jobs and pro-environment," Pruitt said Wednesday afternoon in a Houston speech at CERAWEEK, the world's largest gathering of energy executives.

Scientists immediately criticized Pruitt's statement, saying it ignores a large body of evidence collected over decades that shows fossil fuel burning as the main factor in climate change.

"We can't afford to reject this clear and compelling scientific evidence when we make public policy. Embracing ignorance is not an option," Ben Santer, climate researcher at Lawrence Livermore National Laboratory, said in a statement.

The Supreme Court unleashed a fury of regulation and litigation when it ruled in 2007 that greenhouse gases are an air pollutant that can be regulated under the Clean Air Act. Two years later, the EPA declared carbon dioxide and five other heat-trapping gases to be pollutants.

Pruitt said the Supreme Court's decision should not have been viewed as permission for the EPA to regulate carbon dioxide emissions.

"Decisions were made at the executive branch level that didn't respect the rule of law," Pruitt said in his Houston speech.

REGULATING CO₂

Pruitt has previously said the EPA should not regulate CO₂ without a law passed by Congress

authorizing it to do so. The Republican-controlled Congress could potentially issue a strong signal to the EPA that carbon dioxide should not be regulated by the agency, a move that would undermine many Obama-era rules aimed at curbing emissions.

"Administrator Pruitt is correct, the Congress has never explicitly given the EPA the authority to regulate carbon dioxide as a pollutant and the committee has no plans to do so," said Mike Danylak, spokesman for the Senate Environment and Public Works Committee, the panel that oversees the EPA.

When asked at his confirmation hearing in January whether he would uphold the EPA endangerment finding, Pruitt said it was the "law of the land" and he was obliged to uphold it for now.

Pruitt declined to respond to a question from a reporter after his Houston speech on whether he would now seek to overturn the endangerment finding.

As Oklahoma's attorney general, Pruitt and another dozen attorney generals unsuccessfully challenged the endangerment finding in a federal appeals court.

"The mask is off. After obscuring his true views during his Senate confirmation hearings, Scott Pruitt has outed himself as a pure climate denier," said David Doniger, director of the climate program at the Natural Resources Defense Council.

The new EPA chief said he was committed to ensuring thorough processes for environmental rules and regulations to reduce "regulatory uncertainty."

Pruitt added that he shared Trump's view that the global climate accord agreed by nearly 200 countries in Paris in 2015 was a "bad deal." Trump promised during his campaign for the White House to pull the United States out of the accord, but has since been mostly quiet on the issue.

(Additional reporting by Timothy Gardner and Ernest Scheyder in Houston; Editing by Eric Walsh, Dan Grebler and Bernard Orr)

The Hill

<http://thehill.com/policy/energy-environment/323312-sanders-rips-pruitt-over-co2-comments>

Sanders rips Pruitt over climate change comments

By Nikita Vladimirov 3/9/17, 7:19PM

Sen. Bernie Sanders (I-Vt.) on Thursday blasted the head of the Environmental Protection Agency (EPA) for doubting that carbon dioxide is a "primary contributor" to climate change.

"I wish I could come up with another word — it is pathetic, that that is the position of the administrator of the Environmental Protection Agency," Sanders said in an interview with CNN.

"You have the head of the Environmental Protection Agency who denies ... reality in face of overwhelming scientific evidence — not only is it sad, it is a real threat to the wellbeing of this country and the world."

On Thursday, EPA head Scott Pruitt voiced his view that he "would not agree" that carbon dioxide is a primary contributor to global warming.

"I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact. So no, I would not agree that it's a primary contributor to the global warming that we see," he said.

Sanders, however, maintained that the debate over global warming is over and that carbon dioxide emissions cause "devastating problems" to the planet's climate.

"The debate is over. Something like 97 percent of the scientists who have written peer-reviewed articles on the subject agree that it is human activity and CO2 emissions that are causing devastating problems already in the United States and around the world," Sanders said.

"That you have the Trump administration continuing to deny the reality and the horrors that the climate change is already causing, is very sad indeed."

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The Washington Times

<http://www.washingtontimes.com/news/2017/mar/9/scott-pruitt-turns-epa-away-from-climate-change-ag/>

Pruitt starts steering EPA away from climate change, more toward clean water and air

By Ben Wolfgang 3/9/17

Scott Pruitt on Thursday made clear he doesn't believe carbon dioxide is the main driver of climate change — and his declaration touched off a firestorm among critics who interpret the remark as concrete proof that the EPA administrator plans to disregard the past eight years and take the agency in a new direction.

Mr. Pruitt offered the comments during a morning interview with CNBC as President Trump was

preparing to sign an executive order reversing key government regulations on carbon pollution.

The EPA chief told CNBC that it's challenging to truly measure humans' effect on the climate and that there is "tremendous disagreement" about exactly how much carbon pollution contributes to climate change.

"I would not agree that [carbon] is a primary contributor to the global warming that we see," Mr. Pruitt said.

His remarks put him on the opposite side from most climate scientists, researchers and governments, and underscore a sharp break from the EPA's approach over the past eight years.

During the Obama administration, the Environmental Protection Agency was the tip of the spear in a governmentwide fight against climate change. The agency crafted rules such as the Clean Power Plan, the nation's first set of limits on carbon emissions from power plants. That rule, which remains tied up in federal court, now is on the chopping block. Mr. Trump is expected to soon direct the EPA to begin the lengthy, complex process of unwinding the plan.

President Obama saw the EPA as a necessary tool in his climate change agenda, but Mr. Trump and Mr. Pruitt believe the agency should have a more narrow purpose: protecting the nation's air and water, not trying to stem global temperature rises.

In fact, Mr. Pruitt built his political career challenging the EPA's carbon rules in federal court while he served as attorney general of Oklahoma.

"The president has made it very clear that the administration is going to refocus EPA on clean air and clean water. Administrator Pruitt is and has been right in line with that approach," said Michael McKenna, a Republican strategist and president of the lobbying firm MWR Strategies who worked on the Trump transition team.

For environmentalists and Democrats in Congress who already fear what the administration has in store for climate policy, Mr. Pruitt's remarks went too far.

“There are only two explanations for Mr. Pruitt's outrageous comment: Either our nation's chief environmental officer is unaware of basic scientific facts, or he is intent upon misleading the public,” said Sen. Thomas R. Carper of Delaware, the ranking Democrat on the Senate Environment and Public Works Committee. “Carbon dioxide is one of the most potent and abundant greenhouse gases in our atmosphere, and it is the primary greenhouse gas emitted by human activities. Those are the facts; they are not up for debate. Mr. Pruitt and I can have differences of opinion, and we certainly do, but Mr. Pruitt is not entitled to his own facts.”

Democrats quickly began fundraising off of the issue. House Minority Leader Nancy Pelosi of California used the comments to ask for money Thursday afternoon on behalf of the Democratic Congressional Campaign Committee.

“President Trump appointed a climate change denier to lead the EPA — and now we're seeing the effects. Grassroots Democrats can't let these horrifying claims go unnoticed. Will you fight back?” she said in the message.

Michael Brune, executive director of the environmental group the Sierra Club, said the Senate should demand that Mr. Pruitt be removed from his post.

“The arsonist is now in charge of the fire department, and he seems happy to let the climate crisis burn out of control,” Mr. Brune said in a statement. “Pruitt is endangering our families, and any sensible senator should demand he is removed from his position immediately for misleading Congress and being unfit and unwilling to do the job he has been entrusted to do.”

During his Senate confirmation hearings this year, Mr. Pruitt told lawmakers that he believes climate change is real — a statement that put him at odds with Mr. Trump, who has said global warming is a “hoax.”

Much like Energy Secretary Rick Perry and Interior Secretary Ryan Zinke, both of whom were

pressed on the same question by Democratic senators, Mr. Pruitt said climate change is real and that mankind has played a role but the extent of the role is unclear.

AP

http://hosted.ap.org/dynamic/stories/U/US_EPA_BUDGET_ENVIRONMENTAL_JUSTICE?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT

EPA's Environmental Justice Head Resigns Amid Budget Cuts

3/9/17, 5:21PM

WASHINGTON (AP) -- The head of the Environmental Protection Agency's office on environmental justice has resigned in protest over the Trump administration's proposal to slash funding for programs that help poor and minority communities.

Mustafa Ali, an associate assistant EPA administrator, helped found the environmental justice office in the 1990s and worked under Republican and Democratic presidents.

Ali told InsideClimate News, which first reported on his resignation, that he sees no indication the Trump administration is interested in helping vulnerable communities. He says his "values and priorities seem to be different than our current leadership, and because of that I feel that it's best if I take my talents elsewhere."

Ali's resignation letter urges EPA Administrator Scott Pruitt to reconsider proposals to cut EPA's budget by one-quarter and dismantle the environmental justice office.

InsideEPA

<https://insideepa.com/daily-news/senators-eye-legislation-requiring-agencies-use-best-available-science>

Senators Eye Legislation Requiring Agencies To Use 'Best Available Science'

By Maria Hegstad 3/9/17

The Senate Homeland Security and Government Affairs Committee is weighing how to codify requirements in executive orders that EPA and other federal agencies utilize only the "best available science" in their regulatory decisionmaking, but is likely to take a different approach than EPA-specific science legislation in the House.

“Agencies should rely on the best available information and make decisions based on the weight of that information,” said Sen. James Lankford (R-OK), chairman of the committee's Regulatory Affairs and Federal Management Subcommittee in his opening remarks at a March 9 hearing.

“If past administrations' attempts to encourage agencies to base their regulatory decisions on transparent sound science have failed, Congress should consider establishing new legal requirements,” Lankford added. “I look forward to discussing steps Congress can take to implement these basic and fundamental requirements that have been endorsed by both Democrat and Republican administrations for decades.”

Lankford pointed to examples such as President Bill Clinton's 1993 Executive Order (EO) 12866, directing agencies to “base decisions on the best reasonably obtainable” information and President Barack Obama's EO 13563, directing all agencies to “ensure the objectivity of any scientific and technical information” supporting regulatory decisionmaking.

Lankford raised concerns that despite these directions, agencies have not always met such standards. He pointed to recent EPA regulatory activities, which he suggested did not meet such standards, EPA's 2015 proposal to ban the insecticide chlorpyrifos and “Clean Air Act regulations.”

“Examples like these call into question whether agencies are actually using the best available information available to them when they make regulatory decisions,” Lankford said. “Each administration has their own priorities, but the principles supporting regulatory decisions should remain constant regardless of who occupies the White House.”

In remarks with reporters afterward, Lankford said, “We're not just trying to target EPA,” adding that he is seeking language that would apply broadly to all agencies, unlike other congressional efforts.

Lankford's comments came as the House science committee March 9 approved along party lines two bills that would require EPA to publish all of the data it uses and to restructure its Science Advisory Board.

Lankford, however, reiterated at the hearing the bipartisan support for agencies' use of best available science. "There's been executive orders for many years on best available science," he said, adding that if there's so much agreement, "Let's move it to statutory language."

Scientists' Concerns

But one witness at the hearing raised concerns about the idea. Andrew Rosenberg, director of the Union of Concerned Scientists' Center for Science and Democracy, argued in his written testimony that "if one were to legislate what should be legally considered 'best available science,' it would prevent the innovation and flexibility that is inherent in the scientific process. This ability to learn is essential for agencies as they address new discoveries like autonomous vehicles and advancements in nanotechnology."

Rosenberg added that "science continues to evolve. New research leads to a better understanding of complex challenges that we face today, allowing experts to make appropriate determinations, sometimes erring on the side of caution when faced with uncertainty or limited data to best protect the public."

Sen. Maggie Hassan (D-NH), asked Rosenberg to elaborate on these concerns at the hearing. Rosenberg replied, "If you legislate best available science, that is exactly what agencies will do and not deviate, even if there is a better approach, even if there is new science . . ."

But the other two witnesses at the hearing encouraged Lankford's efforts. Nancy Beck, senior director of regulatory science policy at the chemical industry association American Chemistry Council, told Lankford that there is a definition of weight of evidence that she would like to see EPA adopt, a definition the Senate discussed last June during debate on the Lautenberg Chemical Safety for the 21st Century Act (LCSA), which revised the Toxic Substances Control Act.

In her written testimony, Beck provided four recommendations to improve regulatory science, by clarifying scientific definitions, improving oversight and developing "quality checklists," improving peer review practices and changing "publication incentives and standards for scientific grants funding."

As an example, Beck points to the Lautenberg Act, which includes some language requiring EPA's use of best available science in conducting its risk evaluations of chemicals. "ACC believes that the intent of Congress in drafting the scientific standards in the LCSA is clear. It is also clear that EPA's proposed interpretation diverges from Congressional intent in important respects," Beck's testimony states.

Beck continues, "Clarifying that the intent of scientific standards is to improve existing Agency practices would be useful. In addition, providing clear and specific definitions for terms like best available science and [weight of evidence] would be beneficial to the consistency, reliability and credibility of EPA's regulatory decisions. These definitions should address not only what Agencies should consider when evaluating scientific information, but also what information Agencies should present in evaluations."

Susan Dudley, director of the George Washington University Regulatory Studies Center, also backed the committee's efforts, noting her written testimony that "[e]ffective regulatory policy that focuses resources on addressing real threats to public health and the environment depends on reliable scientific information and transparent policy choices."

Dudley added that "clarifying which aspects of the decision are matters of science and which are matters of policy is essential to avoid both hidden policy judgments and the science charade."

But Sen. Tom Carper (D-DE), seemed to question the necessity of such a bill in his questions to the witnesses. He noted that regardless of any change in law on scientific standards, the Administrative Procedure Act requires agencies to conduct cost-benefit analyses as part of the rulemaking process, among other restraints, and that regulated entities can sue if EPA fails to meet these requirements.

House Bills

Meanwhile, the House Science, Space and Technology Committee voted two bills, H.R. 1430 and H.R. 1431, to the House floor on party-line votes. H.R. 1430 is a reprise of Chairman Lamar

Smith's (R-TX) "secret science" bill of previous sessions. The intent of the bill is to require EPA to use the "best available" reproducible science in developing rules and to make all data underlying its rules publicly available. Such a mandate would be challenging with some of the data that EPA relies on, such as epidemiological data and medical records, confidential business information, or even data with certain copyright protections.

Lankford, in the Senate hearing, mentioned several of these concerns and sought witnesses' advice on what he suggested was the challenge of addressing them. "We are seeking a way to . . . solve this legislatively. We do not want to overreact in what is done and . . . squash the future of science, or to be able to compel people not to do research or put information that should not be in the public domain there," he said.

Smith, in the House science committee's March 9 markup, touted changes to the bill that he said address concerns about the release of private and confidential information. "I really think we've addressed the concerns," he said.

H.R. 1430 now states that if passed, the EPA must only rely on information that is publicly available online "except that any personally identifiable information, trade secrets, or commercial or financial information obtained from a person and privileged or confidential, shall be redacted prior to public availability."

The new bill further states that such "redacted information . . . shall be disclosed to a person only after such person signs a written confidentiality agreement with the Administrator, subject to guidance to be developed by the Administrator." -- *Maria Hegstad* (mhegstad@iwpnews.com)

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17[Actadmmccabe.catherine17@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Fri 3/10/2017 8:24:53 PM
Subject: RE: OPA Clips 3/10/17

Below: InsideEPA, PoliticoPro, E&E News, Quartz, Politifact, AP, Bloomberg, Wall Street Journal, Automotive News, Huffington Post, BNA (5), InsideClimate News, Reuters (3/9), The Hill (3/9), The Washington Times (3/9), AP (3/9), InsideEPA (3/9)

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InsideEPA

<https://insideepa.com/daily-news/epa-defends-staffs-changes-water-offices-science-mission-statement>

EPA Defends Staff's Changes To Water Office's 'Science' Missions Statement

By David LaRoss 3/10/17

EPA is defending a controversial change to its water office's Office of Science and Technology's (OST) mission statement, saying the removal of a commitment to develop "science-based" water standards grew out of a staff effort to clarify what the office does rather than being driven by the Trump administration, though environmentalists and former EPA officials remain concerned.

"It is unfortunate because this really isn't caused by the new administration. Our communications people just wanted plain language to describe our mission. We thought saying that developing safe levels for toxics, nutrients and pathogen indicators clearly implied the use of best available science and provided links to the science with the mission statement," says a March 9 email written by an EPA water official and obtained by *Inside EPA*.

And an agency spokesperson told *Inside EPA* March 10 in response to a request for comment on the change that OST “recently updated its online description to provide language that better explains the outcomes of its work to the public, using terms that are more specific and more understandable. EPA often makes improvements in its website language on a rolling basis. The specific changes you asked about were part of this ongoing website improvement, not a result of the change in Administration.”

Nonetheless, an environmentalist says the shift might represent a decision to prepare for a more industry-friendly approach at OST, which crafts water quality standards and other pollution limits that become the basis for Clean Water Act (CWA) and Safe Drinking Water Act rules.

For example, the environmentalist raised concerns that the new mission statement now says the office develops only “recommended” standards, rather than mandatory requirements, and also eliminated a reference to “protecting public health and the environment.”

Those two things caught my eye even more” than the absence of the “science-based” language, that source says.

As first reported by *The New Republic*, archives of the OST website compiled by the Environmental Data and Governance Initiative -- a group that is monitoring changes to EPA and other agencies' online data -- shows OST revised its mission statement in late January or early February.

A source with the group said the change likely means that EPA is moving toward more technology-based standards, where dischargers just have to install certain types of technology, rather than setting performance-based standards that dischargers have to meet. “This is the most important thing we’ve found so far... The language changes here are not nuanced -- they have really important regulatory implications,” she said.

The office's new mission statement now reads, “OST works with states, tribes, and other stakeholders to develop recommended safe water quality levels for toxics, nutrients, and pathogens to help ensure our nation's waters can be used for fishing, swimming, and drinking water. OST also develops national economically and technologically achievable performance

standards to address water pollution from industry.”

Prior to Jan. 20, according to EPA's own archive of its Obama-era website, the statement read, “OST is responsible for developing sound, science-based standards, criteria, health advisories, test methods and guidelines under the Clean Water Act and the Safe Drinking Water Act. We work with partners and stakeholders to develop the scientific and technological foundations to achieve clean water through national programs that protect people and the aquatic environment.”

'Dark Signal'

In a March 9 interview with *Inside EPA*, conducted before either EPA statement, former OST director Geoff Grubbs -- who headed the office from 1999-2005 -- described the change as sending a “disappointing and relatively dark signal. It takes away the emphasis on sound, science-based standards, and instead emphasizes economic and technological achievability. Those are very different things, in capital letters.”

And another former water official told *Inside EPA* that the shift appears to show the agency under Trump moving away from performance-based standards, based on pollution limits that dischargers must achieve, and toward technology-based standards that can be satisfied simply by installing an approved treatment technology.

The second official says “It was always a push and shove within the organization over the issue of technology-based versus performance-based,” and the change in OST's mission statement could be an early sign that the balance will shift now that the Trump administration is in power.

But the official downplayed the potential for a complete shift to technology-based standards, saying the CWA restricts EPA's ability to take such a step since many provisions require the agency to set pollution limits for specific dischargers or waterbodies.

“The problem with that debate has always been that it depends on the pollution source -- you can't always address it with technology,” the source says.

Both Grubbs and the environmentalist say the language emphasizing “recommended safe water quality levels” is also concerning because much of the work OST does involves setting binding limits, such as CWA effluent limitation guidelines that must be met in facilities' discharge permits, rather than recommendations.

“That's flat wrong . . . those are national rules. It's not coming up with a recommendation that we hope you'll like,” Grubbs said.

But Grubbs continued that a change in the mission statement on its own is unlikely to directly lead to any shift in EPA's activity since “EPA staff doesn't spend time looking at their own website.” Rather, he said, the change will only be significant in the long run if it reflects a change in the office's culture.

“This is not directive. It's not governing. But it's more directional and identity-shaping,” he said.

The environmentalist said that regardless of the origin of the new OST language, groups worried about how the Trump administration will shape EPA will be paying close attention to the office's actions in light of the statement.

“The proof is in the action,” that source says. -- *David LaRoss* (dlaross@iwpnews.com)

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PoliticoPro

<https://www.politicopro.com/tipsheets/energy-regulation-watch/2017/03/trump-starts-wotus-rollback-021791>

Trump Starts WOTUS rollback

By Alex Guillen 3/10/17, 2:27PM

EO UPDATE — WOTUS ROLLBACK GIVES EPA OPTIONS: The executive order President Donald Trump signed last week may show his commitment to undoing the Obama administration's Waters of the U.S. rule, but it doesn't offer many clues about the path his administration will take to try to get there. Annie Snider has more on the possibilities here.

After before Trump signed his order, the Justice Department asked the Supreme Court to put the WOTUS case on hold while EPA and the Corps undertake their review of the Obama administration's rule.

Petitioners, led by the National Association of Manufacturers, are due to file their main briefs on April 13, and according to the DOJ petition have not yet decided whether they'll support or oppose placing the case on hold. Even though industry groups generally support the Trump administration's moves to begin undoing the rule, they also recognize that any new rule is all but certain to end back up in court and will face the same question that the high court is poised to consider about where such challenges belong.

That escalated quickly: Pruitt said during a CNBC appearance Thursday that it took less than eight minutes for EPA to begin implementing Trump's WOTUS order. Now that's service.

Next up — CPP and auto emissions: The administration is publicly acknowledging that more orders on the Clean Power Plan and the 2022-2025 auto emissions standards are coming soon, possibly next week. Neither comes as a surprise, since Trump campaigned on killing the carbon rule, and automakers since the election have been begging the White House to weaken the emissions standards. The devil, of course, is in the details. On the Clean Power Plan, one of the big questions is whether Trump directs EPA to pursue an alternative rule immediately, something Trump has never proposed or discussed, or focus on repealing the

CPP. Meanwhile, the administration has to decide whether to go after California's Clean Air Act waiver that would allow the state and a dozen others to enforce stricter emissions standards, potentially sparking an outright war with blue states on climate change.

ICAHN FEEL IT IN THE AIR: There's been an entire season-long story-arc swirling around the Renewable Fuel Standard and billionaire and presidential pal Carl Icahn since Reg Watch last hit your inboxes. Last month Icahn turned the ethanol world on its head when news broke that Icahn had called Renewable Fuels Association CEO Bob Dinneen to inform him that an executive order changing which companies would bear the burden of complying with the RFS was a done deal. The change is one of Icahn's fondest wishes, and one that the ethanol community — along with much of the oil industry — had long opposed. But Dinneen, believing Icahn to be representing the administration, scrambled to get what concessions he could for his program.

Icahn do this: Soon after the call, Icahn and Valero presented the White House with draft language for a memo or executive order to make the change, and policy staff got as far as discussing it. But no memo emerged. RW hears that staff are more interested in mileage standards and the Clean Power Plan than the RFS, which presents complicated politics for Trump

Icahn feel the heat rising: In the meantime, Icahn suddenly found himself on the defensive, forced to answer charges that he'd become a special government employee and subject to conflict of interest laws, and from a complaint from Public Citizen that he acted as an unregistered lobbyist. And an enraged ethanol community, feeling betrayed by Dinneen, booted RFA from Fuels America, a coalition of the largest trade associations and ethanol groups.

Icahn feel it coming back again: Icahn still holds a title as a special adviser to the president, still wants to see the RFS changed, and he's still close friends with the president. The issue may cool for now, but it could pop up any time. Meanwhile, the EPA still has to sort through comments from its proposed rejection of petitions to make the change and perhaps a final call.

Clean Power Plan: The D.C. Circuit might have hinted Wednesday that it won't rule on the marquee lawsuit challenging the Clean Power Plan for at least a couple more weeks. The 10 judges hearing that case set a March 20 deadline for various briefs to be filed in a secondary dispute over whether to consolidate it with a separate lawsuit related to EPA's rejection of petitions to reconsider the rule. But the judges could still rule before then, rendering this side issue moot. So does that really mean the Clean Power Plan ruling is now on hold? "Your guess is as good as mine," one attorney told POLITICO.

Diesel engines: A federal judge says Illinois-based Navistar Inc. is liable under the Clean Air Act for the sale of almost 7,800 diesel engines in the U.S. that were not certified by EPA. Judge Manish Shah of the U.S. District Court in Northern Illinois sided with EPA in assigning liability to Navistar. He denied, at least temporarily, EPA's request to also hold liable Navistar's parent company, Navistar International Corp., leaving that matter for trial.

Hazardous waste: A coalition of industry groups has sued EPA over its November update to a hazardous waste generator regulation. EPA said the update was needed to address "ambiguities, inconsistencies, gaps, and a lack of flexibility" in the original 1980 regulation. The groups suing,

which include the American Petroleum Institute, the American Chemistry Council and the American Forest & Paper Association, did not outline their legal complaint in their initial complaint.

E&E News

<http://www.eenews.net/greenwire/2017/03/10/stories/1060051299>

Pruitt's political friends come to lobby

By Kevin Bogardus 3/10/17

Associates from U.S. EPA Administrator Scott Pruitt's political days in Oklahoma have come to K Street.

Glenn Coffee and Crystal Coon began lobbying this week for QuikTrip Corp., a convenience store and gas station chain headquartered in Tulsa, Okla., on the renewable fuel standard, according to [lobbying disclosure records](#) released by the Senate.

Coffee served in the Oklahoma state Senate with Pruitt as well as in Oklahoma Republican Gov. Mary Fallin's administration, with Coffee serving as secretary of state and Pruitt as attorney general.

Coon served as chief of staff for Pruitt when he took office as attorney general. She has continued to work with Pruitt, consulting for his federal and state political committees.

Coffee too has been working with Pruitt. His law firm, Glenn Coffee & Associates, has done election law compliance work for Pruitt's state campaign.

The lobbying registration shows both are representing QuickTrip at Coffee's consulting firm, the Coffee Group. The convenience mart chain is both Coffee and Coon's first federal lobbying client, according to records.

"I plan to lobby on behalf of interests that I care about and that share a pro market, pro energy, pro environment vision," Coon said in a statement emailed to E&E News.

QuikTrip has just gotten into the Washington lobbying game. Records show that the company also hired Steptoe & Johnson LLP in July last year and has spent \$40,000 on lobbying so far.

As EPA chief, Pruitt has a big part to play in the renewable fuel standard. The agency administers the program, deciding how much ethanol is to be blended into gasoline.

QuikTrip has been in touch with the agency over its concerns with the RFS. It filed [comments](#) last month with Pruitt at EPA, attaching a letter sent earlier that said changing the program's so-called point of obligation would be "anti-consumer."

The Trump administration's actions on the RFS are being closely watched. A deal — supposedly engineered by Carl Icahn, the investor and adviser to President Trump — that would have shifted responsibility for renewable fuel mandates from refineries to fuel blenders fell apart earlier this week (*Greenwire*, March 8).

Quartz

<https://qz.com/929392/on-scott-pruitt-and-co2-what-happens-when-science-becomes-a-matter-of-belief/>

On Scott Pruitt and CO2: What happens when science becomes a matter of belief?

By Zoe Schlanger 3/10/17

Speaking to CNBC on March 9, Scott Pruitt, the current head of the US Environmental Protection Agency, crossed a threshold even most climate “skeptics” would consider fringe: He said he did not believe that carbon dioxide is the primary driver of global warming.

This isn’t up for debate. An increase of carbon dioxide, or CO₂, in the atmosphere has been proven by copious scientific evidence to be the primary driver of climate change.

Even people who reject the scientific consensus on global warming tend not to go quite that far. They may believe, as both Rex Tillerson (current Secretary of State) and Rick Perry (current Secretary of Energy) say they do, that climate change is real but that we cannot predict “with precision” just how much humans are to blame, or whether it’s bad enough to do something about (though both of those statements are also scientifically untrue). Climate deniers with more extreme views say global warming is all part of a natural fluctuation that humans couldn’t cause or stop if they wanted to (also untrue).

But Pruitt went a leap further. “Do you believe that it’s been proven that CO₂ is the primary control knob for climate?” asked Joe Kernen, co-host of the CNBC morning show “Squawk Box.”

“No,” Pruitt replied. “I think that measuring with precision human activity on the climate is something very challenging to do and there’s tremendous disagreement about the degree of impact, so no, I would not agree that it’s a primary contributor to the global warming that we see.”

Scientists have known for a long time that CO₂ is, in fact, the primary driver of our current warming trend. Other greenhouse gases, like methane and ozone, also contribute. But CO₂ is way out in front of all of them in terms of how much it increases “radiative forcing”—in other words, how much it increases the difference between the sunlight absorbed by the Earth and the energy our planet radiates back into space.

In fact, scientists at the EPA, who are now Pruitt’s employees, are very, very sure about this. They used air bubbles trapped in ice cores to track measurements of atmospheric carbon dioxide through 800,000 years of Earth’s history.

See that spike in the graph on the left? That’s CO₂ levels soaring far above anything resembling natural levels. CO₂ concentrations have increased 40% over pre-industrial levels.

“Atmospheric carbon dioxide measurement precision is accurate enough to know that today’s levels are not natural,” Brenda Ekwurzel, a senior climate scientist at the Union of Concerned Scientists, wrote in a blog post after the CNBC clip was released.

To take it a step further, scientists can *also* say with certainty that all this CO₂ was released into the atmosphere by human activity, namely burning things—like coal, oil, and natural gas. Scientists can actually identify how much atmospheric CO₂ is made up of CO₂ from burning fossil fuels based on the ratios of certain carbon isotopes, Ekwurzel noted.

“With a very high level of confidence, the increase in CO₂ emissions from fossil fuel burning and those arising from land use change are the dominant cause of the observed increase in atmospheric CO₂ concentration,” scientists wrote in a 2013 Intergovernmental Panel on Climate Change assessment report.

In other words, the climate is warming, and human activity is the primary reason. The idea that this is uncertain is contrived.

It’s easy to believe this reality, as long as you believe in climate science as a field of scientific

inquiry. But the majority of Americans don't. A Pew poll from 2016 found that only 33% of those surveyed feel climate scientists "understand very well" whether climate change is occurring at all, and only 28% said scientists know the cause of climate change. Even fewer—27%—believe that "almost all" scientists say climate change is human-caused—even though in reality, they do. Only 39% of Pew survey respondents said they have "some" trust in climate scientists to provide a "full and accurate portrait of the causes of climate change."

With such an extreme lack of confidence in the institution of climate science itself, the fact that Pruitt is factually wrong may fall on deaf ears—or more likely, reinforce a widely held falsehood.

"It is worth pointing out that administrator Pruitt's blatant denial of well-established scientific facts is more than just egregious," Ekwurzel wrote. "It is also at odds with his testimony in his confirmation hearing and in no way changes his legal obligation to regulate carbon dioxide as a pollutant."

PolitiFact

<http://www.politifact.com/truth-o-meter/statements/2017/mar/10/scott-pruitt/epa-head-scott-pruitt-says-carbon-dioxide-not-prim/>

EPA head Scott Pruitt says carbon dioxide is not 'primary contributor' to global warming

By Lauren Carroll 3/10/17, 11:10AM

The new head of the Environmental Protection Agency Scott Pruitt says carbon dioxide is not a primary contributor to global warming.

"Do you believe that it's been proven that CO2 is the primary control knob for climate?" CNBC anchor Joe Kernen asked Pruitt in a March 9 interview.

"No, I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact," Pruitt responded. "So no, I would not agree that it's a primary contributor to the global warming that we see."

Scientists around the globe generally conclude that human activity is the leading cause of climate change because humans have exacerbated the Earth's greenhouse effect, mainly by producing

carbon dioxide.

Compare Pruitt's statement with one on [his agency's website](#), for example: "It is extremely likely that human activities have been the dominant cause of that warming," and then, "Carbon dioxide is the primary greenhouse gas that is contributing to recent climate change."

Environmental activists opposed Pruitt's nomination, in part because in his former role as attorney general of Oklahoma, Pruitt [sued the EPA more than a dozen times](#) over air and water pollution regulations.

However, Pruitt has said he believes in climate change and that human activity is contributing to that change, though he is unconvinced of the extent of human-caused factors.

"The climate is changing, and human activity impacts that," he said in his Senate confirmation hearing.

When we reached the EPA for comment, they did not provide us with information to back up Pruitt's claim.

The normal environment of the earth is that several types of gas stick in the atmosphere and trap excess heat, including carbon dioxide, water vapor, methane and nitrous oxide, making a natural "greenhouse." Since the Industrial Revolution in the early 1800s, humans have changed the composition of the greenhouse — leading to climate change — by releasing significant amounts of carbon dioxide into the air primarily through burning fossil fuels.

"Pruitt is incorrect. CO2 is a primary contributor to global warming. That fact is not in dispute among climate scientists," said Anne Slinn, executive director for research of the Center for Global Change Science at the Massachusetts Institute of Technology.

This chart from the National Oceanic and Atmospheric Administration shows that even though the earth has experienced fluctuations in carbon dioxide levels throughout its history, there's more carbon dioxide now than there has been in at least 400,000 years.

The previous peak carbon dioxide concentration was about 300 parts per million, 300,000 years ago. [Today](#), the count is more than 400 parts per million.

By the end of the 1970s, before global warming was readily apparent, scientists had already formed a consensus that human-produced carbon dioxide would cause the climate to change. And by the mid-1990s, scientists understood that global warming had already occurred over the past 100 years, and carbon dioxide was a substantial cause, said Ralph Keeling, director of the Scripps CO2 Center at the University of California, San Diego.

"Administrator Pruitt's statement means that he does not accept the overwhelming scientific consensus," said Stephen Pacala, co-director of Princeton University's [Carbon Migration Initiative](#), pointing to a [2013 report](#) out of the Intergovernmental Panel on Climate Change.

We reached numerous climate experts, all of whom reiterated the view that Pruitt's claim is contrary to the prevailing scientific thought. For a perspective outside the norm, we also reached out to Roger Pielke Sr., an emeritus professor of atmospheric science at Colorado State University, who has argued that carbon dioxide is one of many human-caused factors contributing to long-term changes in the climate, but it's not the dominant one. For example, the release of black carbon (soot) or land use changes might have a larger effect on the climate relative to carbon dioxide than is currently believed.

In Pielke's view, a more accurate version of Pruitt's statement would be: "I would not agree that CO2 is the only contributor to changes and longterm variations in climate."

Our ruling

Pruitt said carbon dioxide is not "a primary contributor to the global warming that we see."

The prevailing scientific consensus is that human production of carbon dioxide since the Industrial Revolution is a leading cause of climate change. Some scientists may quibble over how much of the change can be attributed specifically to carbon dioxide, but there is no doubt that it plays an important role.

We rate Pruitt's claim False.

AP

<http://bigstory.ap.org/article/bcf3299ea77b4afd8bbc4750978cb28d/volkswagen-pleads-guilty-us-diesel-emissions-scandal>

Volkswagen pleads guilty in US diesel emissions scandal

By Tom Krisher and Ed White 3/19/17, 10:55AM

DETROIT (AP) — Volkswagen pleaded guilty Friday to conspiracy and obstruction of justice in a brazen scheme to get around U.S. pollution rules on nearly 600,000 diesel vehicles by using software to suppress emissions of nitrogen oxide during tests.

The German automaker has agreed to pay \$4.3 billion in civil and criminal penalties — the largest ever levied by the U.S. government against an automaker — although VW's total cost of the scandal has been pegged at about \$21 billion, including a pledge to repair or buy back vehicles.

U.S. regulators confronted VW about the software after West Virginia University researchers discovered differences in testing and real-world emissions. Volkswagen at first denied the use of the so-called defeat device but finally admitted it in September 2015.

Even after that admission, company employees were busy deleting computer files and other evidence, VW's general counsel Manfred Doss acknowledged to U.S. District Judge Sean Cox.

Summing up the scandal, Assistant U.S. Attorney John Neal said it was a "calculated offense," not a "momentary lapse of judgment."

Although the cost is staggering and would bankrupt many companies, VW has the money, with \$33 billion in cash on hand. Volkswagen previously reached a \$15 billion civil settlement with U.S. environmental authorities and car owners.

Under its agreement, VW must cooperate in the investigation and let an independent monitor oversee compliance for three years. Separately, six Volkswagen employees face criminal U.S. criminal charges in the scandal.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-10/only-congress-can-stop-california-s-emissions-rules>

Only Congress Can Stop California's Emissions Rules

By Noah Feldman 3/10/17, 9:00AM

The Trump administration is considering a new assault on American legal and constitutional structures by taking on federalism -- and vehicle emissions. Specifically, the Environmental Protection Agency reportedly will try to revoke a waiver that California has enjoyed for 45 years, which allows the state -- and any state that wants to copy it -- to regulate tailpipe emissions more stringently than the federal government does.

A revocation by President Donald Trump and the executive branch is almost certainly unlawful. The Clean Air Act expressly says that California must be granted the waiver if its emissions rules are "at least as protective of public health and welfare" as the federal government's. That means anything more protective must be granted. If the revocation happens, there is sure to be a protracted legal fight.

The stakes are high for the environment. Because 15 states follow California, and cars sold in states bordering those states may comply with California rules, 130 million people are potentially affected.

But the stakes are also high for the federal design of the Constitution. The California waiver provision reflects the delicate balance between states and the federal government in environmental regulation. Revoking it falls within Congress's power, not the president's.

The Clean Air Act's waiver provision is unusual -- and it flows from federalism principles.

Under the Constitution, as a default, both states and the federal government share the capacity to

regulate most activities. The states have an inherent regulatory power, known as the “police power.” The federal government gets its power to regulate from Congress’s authority to make laws on matters affecting interstate commerce. State and federal power can overlap, as in the case of the punishment of drug crimes.

Because federal law is the supreme law of the land, according to the Constitution, federal law trumps state law when the two conflict.

Congress has a special power that allows it to deal with that conflict by barring states from regulating in areas where they might interfere with federal rules. This power is called “preemption”: Congress “preempts” state law when it has occupied the whole field of regulation to the exclusion of the states. Sometimes Congress says expressly that it’s preempting state laws; sometimes the preemption is implicit.

The Clean Air Act is an example of federal preemption -- in part. Section 7543 of the law says that no state “shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles.” That includes “certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle.”

Yet as soon as the law takes away states’ regulatory power, it restores it to California. The law says the EPA administrator “shall ... authorize California to adopt and enforce standards.” It’s up to California (not the federal government) to determine “that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.”

The only ways to block California from using its own standard are if the EPA administrator determines that the California rules are arbitrary and capricious -- which they aren’t -- or if “California does not need such ... standards to meet compelling and extraordinary conditions.” So long as Los Angeles has smog, the conditions for restricting emissions are going to be compelling.

The historical reason for this design is that California had been regulating emissions long before the federal government got into the act.

But the structural reason is that California had the influence in Congress to make sure its regulatory power was preserved even after the Clean Air Act was passed. The true balance between state and federal authority is worked out in Congress, where the states can have a real impact on lawmaking.

Thus, it’s not up to the president to change the balance of power -- particularly not when Congress has already spoken.

And that’s what Trump’s EPA is doing by considering the revocation of the waiver that has been in place since just after the law was passed in 1970.

There is some existing legal uncertainty about whether the waiver may be used by California to regulate greenhouse-gas emissions. The George W. Bush administration said it couldn’t, but

before that claim could be reviewed by the courts, Barack Obama was elected and granted the waiver.

The best reading of the law is that it does extend to greenhouse gases. But what's more important is for the executive branch to recognize that Congress has preserved California's authority, and that it should respect that decision.

Otherwise, the president without Congress would be able to change the state-federal balance. And that's unconstitutional.

Wall Street Journal

<https://www.wsj.com/articles/volkswagen-pleads-guilty-to-criminal-charges-in-emissions-cheating-scandal-1489161238>

Volkswagen Pleads Guilty to Criminal Charges in Emissions-Cheating Scandal

By Mike Spector and Mike Colias 3/10/17, 11:42AM

Volkswagen AG pleaded guilty to criminal charges for rigging diesel-powered vehicles to cheat on government emissions tests, capping the final significant U.S. legal settlement expected in a long-running deception that hammered the German auto company's reputation and finances.

In an unprecedented resolution for a criminal case involving an automotive company, Volkswagen pleaded guilty in a Detroit federal court Friday to conspiracy to defraud the U.S., commit wire fraud and violate the Clean Air Act; obstruction of justice; and import violations. The auto maker's plea agreement includes a \$2.8 billion criminal fine and resolves a longstanding Justice Department probe.

Volkswagen has also agreed to an additional \$1.5 billion civil penalty to settle the U.S. investigation. That is on top of previous civil settlements with consumers, regulators, dealers and state attorneys general in the U.S. that could cost Volkswagen more than \$20 billion. Some current and former Volkswagen executives and employees were separately charged in the criminal probe, but weren't the subject of Friday's hearing.

Volkswagen General Counsel Manfred Döss entered Friday morning's guilty plea on the company's behalf before U.S. District Judge Sean F. Cox. The company was arraigned on the charges earlier before a magistrate judge in a separate hearing. Volkswagen signed a plea agreement with U.S. prosecutors in January, weeks before Friday's formal court hearings.

Judge Cox said he would forego sentencing until April 21. That final step would formalize Volkswagen criminal penalties that include the assignment of an independent monitor to audit its regulatory compliance practices for at least three years.

"Volkswagen's offenses are very, very, very serious," the judge said. "I just want more time to reflect and study."

The guilty plea codified Volkswagen's admission to conspiring for nearly a decade to deceive

U.S. officials with illegal software known as defeat devices that allowed nearly 600,000 diesel-powered vehicles to pass emissions tests and then pollute beyond legal limits on the road.

The U.S. Environmental Protection Agency disclosed Volkswagen's deception in September 2015 and said the company's vehicles spewed toxic tailpipe emissions up to 40 times above allowable levels. Volkswagen admitted to installing the problematic software on some 11 million vehicles globally, sparking government hearings, litigation and investigations around the world targeting the company and many of its senior executives.

Volkswagen's emissions fraud was "a very well thought out, calculated, well-planned offense," said Assistant U.S. Attorney John Neal during Friday's court hearing, adding the conspiracy reached the "highest levels of the corporation."

Mr. Neal added that the government could have fined Volkswagen up to \$34 billion, but assessed a lower figure given the auto maker's cooperation with the investigation, previous large civil settlements and efforts to compensate consumers affected by its deception.

Mr. Döss said during court proceedings that some Volkswagen supervisors and employees destroyed documents and files when learning of the emissions probe, and that the auto maker had deceived U.S. environmental regulators and customers.

A federal grand jury separately indicted seven Volkswagen executives and employees for their role in the emissions fraud. Many of them are believed to reside in Germany and it isn't clear whether they will travel to the U.S. to face charges.

U.S. authorities arrested one of them, Oliver Schmidt, the former head of Volkswagen's Environment and Engineering Office in Auburn Hills, Mich., in January at Miami International Airport as he prepared to travel home to Germany. After being transferred to Detroit, he pleaded not guilty to criminal charges and is being held at an area jail awaiting trial.

An engineer who pleaded guilty to criminal conduct for helping Volkswagen cheat on emissions tests, James Liang, is scheduled to be sentenced in May.

Former Volkswagen Chief Executive Martin Winterkorn resigned in the wake of the emissions crisis, and the company then suffered sales declines and financial losses, in part due to freezing affected vehicles on U.S. dealer lots. But the auto maker reported a profit for 2016 and passed Toyota Motor Corp. as global car-sales leader. Volkswagen recently curbed executive pay amid investor ire emanating from the emissions deception.

Still, the corporate criminal case against Volkswagen represented the harshest punishment yet stemming from an unprecedented government crackdown on automotive firms for safety and environmental lapses. Along with stiff financial penalties, prosecutors have been seeking charges against executives and employees implicated in auto-industry scandals.

Takata Corp. in January pleaded guilty to criminal wrongdoing and agreed to \$1 billion in penalties to resolve an investigation of the Japanese supplier's handling of rupture-prone air bags linked to numerous death and injuries and historic recalls. Three executives were also charged.

Toyota and General Motors Co. in recent years settled criminal cases resulting from safety

transgressions without pleading guilty to charges and suffering smaller financial penalties than that to which Volkswagen agreed.

In the waning days of the Obama administration, U.S. environmental regulators accused Fiat Chrysler Automobiles NV of using emissions software on diesel-powered Jeep Grand Cherokee sport-utility vehicles and Ram pickup trucks that allowed them to spew illegal levels of pollution. Officials stopped short of saying the software was designed to cheat emissions tests as Volkswagen's did. The Italian-U.S. auto maker has denied wrongdoing.

—Christina Rogers contributed to this article

Automotive News

<http://www.autonews.com/article/20170309/OEM/170309755/vw-pleads-guilty-to-3-felonies-in-deal-to-settle-u-s-emissions-case?cciid=email-autonews-blast>

VW pleads guilty to 3 felonies in deal to settle U.S. emissions case

By Larry P Vellequette 3/10/17, 10:00AM

DETROIT -- The largest automaker in the world is now officially a felon in the United States, but its sentencing will have to wait.

Volkswagen Group pleaded guilty Friday in U.S. District Court here to three felonies under a plea agreement: conspiracy, obstruction of justice and introducing imported merchandise into the United States by means of false statements.

The guilty pleas accepted by District Judge Sean Cox settle claims by the EPA and U.S. Customs and Border Protection for VW's importation of almost 590,000 turbodiesel vehicles that violated clean air regulations.

However, the judge said at the end of an 70 minute hearing that he wanted more time to consider the settlement's \$4.3 billion in fines and other actions given the "serious nature" of the crimes.

Friday was the first time the company has pleaded guilty to criminal conduct in any court in the world, a company spokesman told Reuters.

The settlement, first announced in January, calls for VW to pay \$4.3 billion in penalties and for the automaker to continue to fully cooperate with federal and state investigators. The settlement also would subject VW to an independent monitor for at least three years as well as a number of other consolations to ensure that it will comply with the law in the future.

Cox scheduled a hearing on sentencing for April 21 at 9:30 a.m.

If VW hadn't settled, it would have faced potential fines in the cases of between \$17 billion and

\$34 billion.

Explanation of charges

In court today, VW General Counsel Manfred Doess initially stood mute before District Magistrate Judge Anthony Patti as the company was arraigned prior to entering its plea. However, in a hearing about a half hour later before Cox, Doess entered guilty pleas on behalf of VW to all three felony counts.

Doess has been VW general counsel since Jan. 1, 2016. Cox questioned Doess for several minutes, verifying his age, his position and his education, and whether the corporation had availed itself of outside counsel.

Cox then spent several minutes going through the charges against the automaker: how it had conspired to defraud the government, how it had obstructed justice by concealing defeat devices from regulators and destroying evidence, and how it had imported the illegally polluting turbodiesels to the United States beginning in 2009.

After fully explaining the charges, the law and the plea agreement between VW and the U.S. Justice Department to Doess, Cox accepted VW's guilty pleas at 10:36 a.m., 50 minutes after the hearing began.

Asked by Cox to explain what the company had done, Doess was clear: "VW is pleading guilty to the information because it is guilty to all three counts," Doess said. He went on to describe what VW had done and where and how it had flouted the law.

After the plea was entered, attorneys for the government and VW talked about the company's efforts to "make things right," and how it has cooperated with the probe, including providing information that it has discovered during an ongoing internal investigation "in real time" to government investigators.

The automaker's use of "defeat device" software to skirt emissions tests was first discovered in 2014 by researchers at West Virginia University who tested turbodiesels from VW, Audi and BMW. The researches discovered that the VW and Audi turbodiesels emitted many more times the levels of NOx as were allowed when on the road, but complied when they were being tested in the laboratory.

However, it wasn't until September 2015 that VW finally admitted to using the software to cheat U.S. emissions tests. The ensuing scandal ignited a global firestorm, resulting in almost \$24 billion in costs just in North America.

VW's legal peril with the U.S. government may be over, but its buybacks continue, as does civil litigation in the U.S. and criminal investigations elsewhere around the globe, including in its German homeland. More than 11 million vehicles are affected globally.

As of Feb. 18, the most recent report available, VW had completed 137,985 closings and paid

out \$2.89 billion to owners and current lessees.

VW is processing about 15,000 closings per week and is expected to continue the pace “for the foreseeable future,” according to the latest report filed by the independent claims supervisor.

VW cooperating

As part of the plea agreement, VW must “fully cooperate” with ongoing investigations. So far, the U.S. Justice Department says, the automaker is doing so.

In the plea agreement released in January, the government says VW has already “gather[ed] substantial amounts of evidence and perform[ed] forensic data collections in multiple jurisdictions” and interviewed hundreds of witnesses in the U.S. and overseas, sharing that information with investigators.

The government also credited VW for recovering numerous documents that were deleted by employees after VW’s emissions cheating was discovered in 2014. It also credited VW for improving its whistleblower system in the wake of the scandal and for making other changes to its corporate structure to better guard against a similar scandal in the future.

The automaker will hold its annual press conference next week in its home in Wolfsburg, Germany, where top executives are expected to comment more fully on the ongoing scandal.

Huffington Post

http://www.huffingtonpost.com/entry/epa-environmental-justice-cuts_us_58c18d5ee4b054a0ea68ad0c

Here’s What We Lose If We Gut The EPA’s Environmental Justice Work

By Joseph Erbentraut 3/10/17, 11:21AM

With the abrupt resignation of its leader, the fate of the Environmental Protection Agency’s [environmental justice program](#) appears to be practically sealed.

On Thursday, InsideClimate News reported that Mustafa Ali, who has been heading the EPA’s environmental justice work and helped found the program in 1992, had [resigned from his post](#).

Ali told the site in an interview that he sees the work he was part of as critical to the EPA’s overall function, but indicated that he doesn’t believe the agency’s current leaders share that belief.

“My values and priorities seem to be different than our current leadership and because of that I feel that it’s best if I take my talents elsewhere,” Ali said.

The program, which helps disadvantaged communities push back against industry pollution, appears bound for a drastic, 78-percent funding cut according to preliminary Office of Management and Budget numbers reported by The Oregonian and confirmed by other media outlets last week. The cuts would essentially gut the program, reducing its funding from \$6.7 million to just \$1.5 million.

In his resignation letter, shared widely across Twitter on Thursday, Ali pleaded with EPA chief Scott Pruitt to continue to support the office. Ali credited it with bringing together community groups, government and industry interests “to find collaborative solutions to many of the country’s most serious environmental and public health issues and concerns” in more than 1,000 communities over the course of his time there.

“I strongly encourage you and your team to continue promoting agency efforts to validate these communities’ concerns, and value their lives,” Ali wrote in the letter.

EPA officials did not respond to a request for comment on Ali’s resignation, but Lisa Garcia, who previously headed up the agency’s environmental justice work, said she was “outraged” by the news.

“I think this shows that this administration has no idea how valuable the office of environmental justice is,” Garcia, who left the EPA in 2014 to work at Earthjustice, a nonprofit environmental advocacy group, told The Huffington Post.

The program has operated for years with a shoe-string staff and a tiny budget — just 0.08 percent of the agency’s \$8 billion budget, which itself represented just 0.22 percent of federal spending last year.

So, Garcia added, if the agency is going to be tasked with doing more with less, the environmental justice program should be emulated — not eliminated.

“This decision shows how fiscally irresponsible they are and how they are absolutely making uneducated decisions,” Garcia said. “They aren’t looking at the facts and they really don’t care about people because this is the one program that focuses on some of the most vulnerable communities. It smacks of elitism and racism if this is where they think the cuts can come from.”

The EPA’s environmental justice program, which was originally called the environmental equity office, was established in 1992 following the release of a series of damning reports that found industry polluters like toxic waste sites were disproportionately located in low-income communities of color when compared to wealthier, whiter neighborhoods.

The program aimed to address the problem of minority and low-income communities’ heightened exposure to these pollutants, providing small grants to help communities both create and implement local solutions to environmental justice concerns where they live.

It’s had many achievements. In just one example, a community organization in Spartanburg, South Carolina, helped a neighborhood surrounded by Superfund sites and Brownfields leverage a \$20,000 EPA grant into cleanup efforts that led to more than \$270 million in investments like community health centers, affordable housing, a recreation center, gardens and green space.

In a 2015 agency blog post, former EPA Administrator Gina McCarthy called the Spartanburg effort “a shining beacon of what’s possible when folks impacted by community decisions have a seat at the table.”

Garcia cited other examples of the program’s success: A small EPA environmental justice grant helped the residents of Tonawanda, New York, study the level of toxic benzene in their air — information that they used to force an industry polluter to cut its emissions, resulting in improved air quality. Another similar grant helped Asian-American groups in Seattle develop stormwater retention solutions that helped them revitalize the city’s Chinatown district with urban gardens.

Improvements like these don’t appear to be a priority for the EPA under the Trump administration. Though Pruitt has commented in recent interviews that he will push back against certain agency cuts proposed by the OMB, he has not named environmental justice among them.

This would provide a stark contrast to the way in which environmental justice was prioritized at the EPA under the Obama administration, most plainly evidenced by the long-term goals set forth in the [Plan EJ 2014](#) and [2020 EJ Action Agenda](#) reports that mapped out a comprehensive, agency-wide environmental justice strategy.

The EPA clearly has a long way to go in that regard. A report [released last year](#) by the U.S. Commission of Civil Rights found that the agency has a long track record of extremely delayed responses to environmental justice concerns. A separate report from the Center for Public Integrity found that the agency has been “[chronically unresponsive](#)” to such complaints.

Despite the previous administration’s mixed record on environmental justice, advocates fear that the program’s gutting will cause the agency to backtrack on the progress that has been made at a time when situations like the water crisis in Flint, Michigan, have shown how high the stakes in these matters can be.

Still, the cuts did not come as a surprise to some environmental justice advocates like Kay Cuajunco, a spokeswoman for the [California Environmental Justice Alliance](#).

“We knew that environmental justice communities — low-income communities and communities of color — would be the first and worst hit under the new administration,” Cuajunco told HuffPost. “They have always been disproportionately impacted by pollution, and now the scale of attack will be bigger and the few backstops we’ve had will be gone.”

Other advocates are already preparing to push back against the cuts. And it starts with holding Pruitt to remarks he made during his Senate confirmation process, according to Michele Roberts, national co-coordinator of the [Environmental Justice Health Alliance](#) nonprofit.

In response to questions from Sen. Cory Booker (D-N.J.), Roberts noted, Pruitt [indicated](#) that he recognized the importance of environmental justice efforts and planned to “protect human health and the environment for all Americans.”

“We would think that whatever these programmatic changes he’s proposing would uphold the words that he listed off that he would honor during his hearing,” Roberts told HuffPost. “If he’s committed to all those things, the environmental justice program is not on the chopping block. But I’m just using his words.”

The OMB's proposed cuts to the EPA total about 25 percent of its overall budget and would eliminate 1 in 5 of the agency's employees. Some programs — like beach water quality state grants and Great Lakes, Chesapeake Bay and Puget Sound restoration efforts— are essentially eliminated in the proposal, while climate and Brownfield programs are also slated for major cuts.

Many of these cuts beyond the environmental justice program would also disproportionately impact lower-income communities and communities of color, environmental groups have noted.

"While this 'zero out' strategy would impact nearly every community in the United States, a close examination shows the burden of these cuts will fall hardest on the health of low-income Americans and people of color," Travis Nichols, Greenpeace USA spokesman, said in a previous statement. "This is environmental racism in action."

BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106851341&vname=dennotallissues&wsn=49993100

EPA Will Consider All Options as It Looks at Budget, Pruitt Says

By Nushin Huq

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The EPA is in the early stages of talking to the White House about its budget, but these discussions have been largely positive, agency administrator Scott Pruitt said.

The Environmental Protection Agency is looking at everything from downsizing regional offices to empowering states to take lead roles in regulating air and water pollution, according to Pruitt.

"What's key is that this is the beginning of the process," he told Bloomberg BNA March 9 ahead of his speech in Houston at IHS Markit's CERAWeek, an annual energy conference. "It's something that plays out over a period of time."

A recent proposal from the Office of Management and Budget calls for a 20 percent cut to EPA staff and slashing the agency's budget by 25 percent. Under the proposed spending plan, the EPA could reduce grants to states by 30 percent in fiscal year 2018, putting about 20 grants on the chopping block. There also have been reports that the agency will reduce the number of regional offices from 10 to eight.

The White House budget proposal is set to be released next week.

Regional EPA offices play an important role, Pruitt said, calling them an outpost that's there to help inform and formulate decisions in Washington. All that will be reviewed when the agency decides how many regional offices should remain operational.

Pruitt said he wants states to take a lead role in regulating air and water pollution and the federal government to play a partnering role. Most states have their own environmental regulator, which has expertise and resources that federal regulators don't have, he said.

There's determination, commitment and a belief across-the-board on the importance of partnering with states, Pruitt said when asked about safeguarding EPA state and tribal grants. He didn't expand on whether those grants will be reduced or by how much.

Another area of interest are more than 1,300 Superfund sites, according to Pruitt.

"We're going to come in and show true tangible environmental benefits and getting those sites cleaned up," he said. "There's also the Brownfields Program, a variation of that, local community level."

Senate Confirmations

Pruitt hopes the Senate confirmation process to fill EPA positions will begin soon, though he didn't offer a time frame. There are many positions, not just within the agency, that require

Senate confirmation, making it difficult to predict when positions such as EPA general counsel and deputy administrator will begin.

“There are many names that I think are in the hopper process,” Pruitt said. “We’ll work to get our names there and process those in a good, timely way. We’ve tried to do all we can to get those names vetted and discussed, evaluated, but it takes a little time.”

Pruitt could fill some positions with transition people and said his focus won't be on whether those individuals are inside the agency or outside, but where they fit in the EPA's mission.

“That's going to be the focal point,” he said.

Clean Power Plan

The U.S. Supreme Court's decision to stay the Clean Power Plan, which limits carbon dioxide emissions from power plants, and its narrowing of the tailoring rule, which set greenhouse gas permitting requirements for large stationary sources of air emissions, provide strong arguments for rolling back the Clean Power Plan, Pruitt said.

An administrator just needs reasonable basis to withdraw a rule, he said.

“The Supreme Court said it's [Clean Power Plan] likely unlawful,” Pruitt said. “To issue a stay, the legal standard, the two part standard, the most important in my view, is the court's determination that a particular decision is likely. And in this instance, likely unlawful.”

The stay provides reasonable basis, and the agency's resources are better spent in other ways, he said.

Infrastructure

Pruitt has been in several meetings at the White House to discuss water infrastructure, something he is excited about, he said.

“The president has asked me to serve on a group of Cabinet officials with respect to water infrastructure,” Pruitt said. “I was in a meeting as recent as yesterday with a group of CEOs from across the country. The president acknowledges that the infrastructure package is not just road and bridges.”

Conference Speech

In the past couple of years, there's been a mind-set that you can't be pro-energy and pro-environment, Pruitt told conference attendees during a luncheon address. That simply is not true. One can be pro-growth and pro-environment, he said.

There's been a disregard for process by federal agencies for the past couple of years, according to Pruitt. Litigation has driven the regulatory agenda, he said by having lawsuits and consent agreements filed instead of rulemaking.

“The sue-and-settle practice through consent decrees has been something that the EPA and other agencies have used, I think, to the detriment of the people that we serve,” Pruitt said. “That will change under our administration.”

Other agencies, such as in health care and finance, have used guidance documents to engage in rulemaking. That abuses the process that Congress has set up, he said. “We're going to respect process,” Pruitt said.

Part of the problem is that Congress, in some instances, has not done its job, he said.

“It puts an agency in the executive branch in a difficult position because you don't have a framework. They haven't spoken,” Pruitt said. “Each of the branches needs to do its job.”

Methane

The EPA withdrew its request for information sent to oil and gas companies on methane emissions because first there needs to be a discussion around methane, how to better capture it and ensure that it's used in a productive way, Pruitt told IHS Markit Vice Chairman Dan Yergin, in a question-and-answer after his speech.

“Sometimes, regulators don't realize that methane is valuable,” Pruitt said. “It needs to be captured and used. So it's not waste per se. Now it can cause harm to the environment; it can cause harm to individuals.” He said it was premature to ask for information on methane before having a discussion about it.

Power

“Regulators shouldn't use their power to pick winners and losers,” Pruitt told Yergin. “We ought to set standards. We will set standards that will better inform you as you make decisions.”

The baseload energy is important to the grid, and consumers pay for the investment, Pruitt said. Government interference on what type of generation to promote could lead to stranded costs that are passed on to consumers.

The agency should set goals and let industry figure out how to achieve them, Pruitt said. Some current regulations are examples of regulatory over-reach, like the Clean Power Plan, he said.

“What can we do to provide better outcome for air attainment,” Pruitt said. “The air attainment issues, as far as the NOx program, we're at 40 percent now, what should we be five years now?”

Instead of making rules, the agency should make goals and work with industry on how to achieve those goals, he said.

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House Panel Advances Science, Transparency, EPA Science Board Bills

By Rachel Leven 3/10/17

The EPA would have to publicly release more data, limit use of certain science, and alter the makeup of a board that gives the agency scientific advice under two bills a House committee advanced on March 9.

The House Science, Space and Technology Committee approved by a 17-12 margin the Honest and Open New EPA Science Treatment Act of 2017 ([H.R. 1430](#)), a bill focused on what science the agency must make public or limit use of in its decision-making.

The committee also approved the Environmental Protection Agency Science Advisory Board Reform Act of 2017 ([H.R. 1431](#)), which aims to make the agency's Science Advisory Board a transparent and "well-balanced expert panel," by a 19-14 vote.

House Republicans said at the mark-up that these bills are needed to restore transparency in the Environmental Protection Agency's use of science in its decisions, judgments that Republicans say have had real economic consequences.

However, House Democrats argued that the bills wouldn't improve science in EPA decisions, but would slow the regulatory process unnecessarily and dangerously exclude important science and scientists with expertise on the issues.

Path Forward

Both bills are similar to two House bills that passed the lower chamber and died in the Senate last session.

A spokesman for House Majority Leader Kevin McCarthy (R-Calif.) told Bloomberg BNA in an email that the leader's office is aware of the bills, but a vote has yet to be scheduled.

Sen. John Barrasso (R-Wyo.), the new Senate Environment and Public Works Committee chairman, also seems open to working on these issues.

“The House Science Committee is continuing to work to improve science at the EPA. EPA's science should be open and transparent and the Senate Environment and Public Works Committee will continue to work to achieve these goals,” a spokesman for the Senate committee's majority told Bloomberg BNA in an email.

Both House bills are supported by groups such as the American Chemistry Council, the U.S. Chamber of Commerce and the American Farm Bureau Federation. They are opposed by groups that include the American Lung Association, the Environmental Defense Action Fund and American Geophysical Union.

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Senate Aide Named a Top Adviser to EPA Head on Climate, Clean Air

By Dean Scott 3/10/17

A top Senate aide's recent move to majority counsel at the Environment and Public Works Committee was only a pit stop: Mandy Gunasekara now heads to the Environmental Protection Agency to advise its new administrator on air and climate issues.

The committee aide will serve as a senior policy adviser in the EPA administrator's office beginning March 20, several Senate aides confirmed to Bloomberg BNA March 9.

Gunasekara is currently majority counsel for the new Environment and Public Works chairman, Sen. John Barrasso (R-Wyo.); her last day with the committee is March 17. She will be among a handful of senior advisers reporting to Scott Pruitt, the former Oklahoma attorney general confirmed to head the EPA.

Pruitt's incoming policy adviser has worked for the environment panel since 2015, when then-Chairman James Inhofe (R-Okla.) named her to serve as the panel's Clean Air Act and Climate Change counsel. Barrasso took the mantle in January—Inhofe had to step down due to term limits Republicans impose on leadership in the Senate—and essentially brought Gunasekara with him as majority counsel.

Gunasekara is the latest former Inhofe aide to go to work for Pruitt, following Ryan Jackson, who will be Pruitt's chief of staff. Andrew Wheeler, another ex-Inhofe aide, is reportedly being considered for the No. 2 job at EPA.

To her Senate and House peers, Gunasekara will always be remembered for her connection to a bit of winter theater on the Senate floor in February 2015. Inhofe tossed a snowball—underhanded and in the direction of Sen. Bill Cassidy (R-La.), who happened to be presiding over the Senate—to protest what he said were overly alarmist warnings of rising temperature and man-made climate change.

Though the idea was Inhofe's, the snowball featured in that stunt was brought to him by Gunasekara, who at the time had only been in her committee post for three weeks. The snowball deed was featured in a segment on “The Daily Show,” then hosted by Jon Stewart, with the video capturing Gunasekara seated just behind the senator as he cupped the snowball.

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Nonprofit Sues Over EPA-Monsanto Documents

By Tiffany Stecker 3/10/17

A nonprofit organization has launched the latest salvo in a bitter battle over the risks posed by world's most widely used herbicide.

U.S. Right to Know—an organization focused on uncovering industry ties to the science and regulation of food—is suing the Environmental Protection Agency for not releasing documents on glyphosate, better known as RoundUp, under the Freedom of Information Act (*U.S. Right to Know v. EPA* D.D.C., 1:17-cv-00423, 3/09/17).

The organization and its research director, Carey Gillam, said the EPA failed to respond to a public records request under the law in a timely manner. Gillam requested communications between the EPA and Monsanto Co., the manufacturer of RoundUp, regarding a controversial report last year that the EPA published, then quickly took offline.

The complaint was filed March 9 in the U.S. District Court for the District of Columbia.

Gillam requested documents on the EPA's Cancer Assessment Review Committee (CARC) report concluding that glyphosate is “not likely to be carcinogenic to humans,” a finding that contradicts a 2015 assessment from the World Health Organization's International Agency for Research on Cancer.

She filed the request May 12, 2016, nearly two weeks after the EPA inadvertently put the report online. On May 26, 2016, the agency told Gillam that the search for responsive records could take up to three weeks to complete. More than 200 days have passed since the EPA acknowledged receipt of the request.

The CARC report is part of the agency's periodic review of the herbicide, which began in 2009. Neither the EPA nor Monsanto immediately responded to requests for comment.

Deposition Expected

The lawsuit comes as attorneys representing dozens of plaintiffs in multidistrict litigation against Monsanto ask a judge to uncover confidential documents the company submitted to the court.

The attorneys, whose clients said their exposure to RoundUp resulted in non-Hodgkins lymphoma, also are seeking the deposition of Jess Rowland, a former EPA scientist who resigned shortly after the EPA report was released last year.

U.S. District Court for the Northern California District Judge Vince Chhabria, who heard arguments on the case Feb. 27, is likely to force Rowland's deposition and the release of information from Monsanto (*In re Roundup Prod. Liab. Litig.*, N.D. Cal., No. 3:16-md-02741, motion hearing 2/28/17).

Rachel M. Clattenburg and Adina H. Rosenbaum of the Public Citizen Litigation Group are representing U.S. Right to Know in the lawsuit.

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N.Y. Attorney General Says He Will Fight EPA on Budget Cuts

By John Herzfeld 3/10/17

New York's top legal official says he will use the power of his office to hold the EPA accountable if planned budget cuts hamper the agency's ability to carry out its responsibilities.

Attorney General Eric T. Schneiderman (D), in a March 9 letter to Office of Management and Budget Director Mick Mulvaney and Environmental Protection Agency Administrator Scott Pruitt, said that “massive cuts” laid out in reports of an OMB fiscal year 2018 budget blueprint “would cause direct, immediate, and lasting harm to New Yorkers by eviscerating core public and environmental health programs.”

The letter is an early marker of expected legal resistance by Democratic-controlled states to Trump administration environmental policies.

Schneiderman warned of “tremendous challenges” facing New York municipalities in assuring clean water, citing estimates that some \$74 billion will be needed over the next 15 years for infrastructure maintenance of the state's drinking water supplies and wastewater treatment.

The EPA for years has contributed most of the money that the state provides to municipalities through revolving funds, Schneiderman said. But the budget blueprint's reported plan for a 30 percent cut in state grants would shift “a much greater burden onto cash-strapped municipalities” and put them “at serious risk of violating standards for drinking water safety and clean water,” he said.

Great Lakes Money

He also protested reported plans for a 97 percent cut in EPA funding for the Great Lakes Restoration Initiative, which he called “one of the most widely supported, bipartisan, and successful federal environmental programs.”

The initiative, he said, has been responsible for water quality improvements that have “set the stage” for upstate New York economic development, such as an \$80 million waterfront project on the Buffalo River, “a waterbody once left for dead both ecologically and economically.”

But challenges to Great Lakes water quality continue from untreated waste discharges, algal blooms and other sources, he said.

He also faulted the budget plan for including “massive proposed cuts to climate change research.”

Schneiderman said that if the EPA “falters in meeting its legal obligations to ensure a clean, safe, and healthy environment for New Yorkers,” he won't hesitate to use “the full power” of his office to force it “to meet those obligations and to hold polluters accountable for violations” of state and federal law.

EPA: Too Early to Comment

An EPA regional spokesman, asked for a response to Schneiderman's letter, told Bloomberg BNA March 9 that the agency wouldn't comment on the budget “at this early point in the process.” In an appearance before the U.S. Conference of Mayors March 3, Pruitt sought to allay concerns about the reported plan to cut state grant programs.

Earlier, Schneiderman joined with attorneys general from the District of Columbia, Hawaii, Massachusetts, Oregon and Vermont in a statement opposing President Donald Trump's Feb. 28 executive order instructing federal agencies to begin the process of rescinding the Waters of the U.S. rule, which clarified which waters and wetlands fall under jurisdiction of the Clean Water Act.

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InsideClimate News

<https://insideclimatenews.org/news/09032017/environmental-protection-agency-scott-pruitt-donald-trump-climate-change>

What Slashing the EPA's Budget by One-Quarter Would Really Mean

By Marianne Lavelle 3/10/17

The Trump Administration's proposed slashing of the Environmental Protection Agency's budget threatens to reduce the agency's resources to levels not seen since its formative days, long before demands from Congress and the public expanded the scope of the agency's missions.

Spending reductions of nearly 25 percent and layoffs of thousands of employees have been floated. Climate change-related programs have been targeted for outright elimination. But that's also enough to cripple some of the agency's core activities, according to experienced agency veterans and outside experts.

Already, the EPA's budget has been cut 7 percent and the agency has lost about 2,000 full-time employees in about five years. The White House budget plan would slash the agency to 12,000 people—setting the agency back to staffing levels of the late Reagan administration. EPA's

funding would fall \$2 billion to \$6.1 billion. When inflation is taken into account, that would be its lowest point since the Ford administration.

With cuts on that scale, EPA would have to function with resources comparable to its earliest years, shortly after its founding under Richard Nixon.

That was before the rise of the Superfund toxic dump cleanup program in 1980, the revisions to the Clean Air Act that in 1990 created economy-wide pollution permitting, the changes to the Safe Drinking Water Act that passed Congress overwhelmingly in 1986, and the growing complexity of dealing with pollution from pesticides, dioxins and other chemicals.

"I believe EPA has been run on a shoestring for a long time," said Bruce Buckheit, a former EPA lawyer who worked on pollution enforcement, a central task for the agency. "You're past the point where you have fat to cut."

'Everything We Do Is Related to Climate Change'

Trump's proposed cuts to the EPA, floated in leaked internal memos and vague announcements, appear to single out climate change programs for cancellation, making good on his campaign promise to "unleash" fossil fuel production. And because so many types of pollution are created by producing and burning fossil fuels, the assault on climate protections could also affect EPA actions that don't address climate change directly—including those that deal with pollutants like smog, soot, acid rain and mercury, or with cleanup operations, or sewage.

The climate cuts would also hit agency research studying ways global warming is affecting EPA's mission to protect the public against day-to-day pollution.

"You can't separate urban air quality and ozone levels from the impacts of weather," said Thomas Burke, an associate dean at the Johns Hopkins Bloomberg School of Public Health. "You can't build a sustainable community anymore without thinking about controlling for very extreme climate events."

He cited the case of Toledo, Ohio's drinking water crisis in 2014, when the water supply was shut down because of a toxic algae bloom in Lake Erie—an acute symptom of a chronic climate disease.

"When you examine why that algal bloom is there," he said, "you have to look at things like water temperatures are different, and storm events that are different."

Burke, who led scientific research at EPA in the final years of the Obama administration, was one of three bipartisan agency veterans to plead last week in the New England Journal of Medicine against cuts in environmental protection, including climate action.

One career EPA official who is knowledgeable about the agency's climate programs but asked not to be named, lamented how little is known about the agency's climate work and its connection to clean air and water. "A lot of people look at EPA and they think we do these big global climate models. That's not what we do," the official said. "We focus on how we at EPA are going to be able to meet our requirements for clean air and clean water—what's in the law for us to do—as the climate changes."

The 30 agency scientists who focus on climate, for instance, recently tackled issues such as how worsening wildfires affect air quality; how drinking water treatment is affected by extreme weather; and how to stop the release of toxic contaminants from waste sites during flooding.

"Everything we do [at EPA] is related to climate change, and climate change is related to everything we do," the official said. "It's another stressor, another component of risk we have to account for."

Because it's unlikely other government agencies will take up that effort, and the private sector has no incentive to do it, "that's why we're involved," the official said. "The states turn to us."

The Trump team is working from a [blueprint](#) budget developed by the Heritage Foundation, a conservative think tank that rejects the prevailing scientific consensus on climate change and the need to urgently address it, including at the EPA.

Its blueprint would end the effort to regulate greenhouse gases in vehicles, power plants or other man-made sources. It would eliminate the Greenhouse Gas Reporting Program, under which industrial facilities have been reporting their carbon emissions since 2010. It would stop "climate resilience" funding, like the grants to help coastal communities protect and enhance wetlands to protect against sea level rise and storm surge.

How deeply the White House and Congressional leaders end up cutting remains anyone's guess.

Last week EPA staff received a memo from acting administrator Donna Vizian. "We are in the first part of a long engagement between the executive and congressional branches of the federal government to establish our appropriation level for FY 2018," which begins on October 31, she said.

What will happen when funding this year under a temporary stopgap spending bill runs out at the end of April? She said she was in the dark. "The Congressional appropriations staffs are working on this, but we have not seen any recent numbers from their process," she wrote.

Reuters

<http://www.reuters.com/article/us-usa-epa-pruitt-idUSKBN16G1XX>

EPA chief unconvinced on CO2 link to global warming

By Doina Chiacu and Valerie Volcovici 3/9/17, 11:22PM

The new head of the Environmental Protection Agency said on Thursday he is not convinced that carbon dioxide from human activity is the main driver of climate change and said he wants Congress to weigh in on whether CO2 is a harmful pollutant that should be regulated.

In an interview with CNBC, EPA Administrator Scott Pruitt said the Trump administration will make an announcement on fuel efficiency standards for cars "very soon," stressing that he and President Donald Trump believe current standards were rushed through.

Pruitt, 48, is a climate change denier who sued the agency he now leads more than a dozen times as Oklahoma's attorney general. He said he was not convinced that carbon dioxide pollution from burning fossil fuels like oil, gas and coal is the main cause of climate change, a conclusion widely embraced by scientists.

"I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact," he told CNBC.

"So no, I would not agree that it's a primary contributor to the global warming that we see," Pruitt said. "But we don't know that yet, we need to continue to debate, continue the review and analysis."

Trump campaigned on a promise to roll back environmental regulations ushered in by former President Barack Obama, including those aimed at combating climate change. He framed his stand as aimed at boosting U.S. businesses, including the oil and gas drilling and coal mining industries.

"We can be pro-growth, pro-jobs and pro-environment," Pruitt said Wednesday afternoon in a Houston speech at CERAWEEK, the world's largest gathering of energy executives.

Scientists immediately criticized Pruitt's statement, saying it ignores a large body of evidence collected over decades that shows fossil fuel burning as the main factor in climate change.

"We can't afford to reject this clear and compelling scientific evidence when we make public policy. Embracing ignorance is not an option," Ben Santer, climate researcher at Lawrence Livermore National Laboratory, said in a statement.

The Supreme Court unleashed a fury of regulation and litigation when it ruled in 2007 that greenhouse gases are an air pollutant that can be regulated under the Clean Air Act. Two years later, the EPA declared carbon dioxide and five other heat-trapping gases to be pollutants.

Pruitt said the Supreme Court's decision should not have been viewed as permission for the EPA to regulate carbon dioxide emissions.

"Decisions were made at the executive branch level that didn't respect the rule of law," Pruitt said in his Houston speech.

REGULATING CO2

Pruitt has previously said the EPA should not regulate CO2 without a law passed by Congress authorizing it to do so. The Republican-controlled Congress could potentially issue a strong signal to the EPA that carbon dioxide should not be regulated by the agency, a move that would undermine many Obama-era rules aimed at curbing emissions.

"Administrator Pruitt is correct, the Congress has never explicitly given the EPA the authority to regulate carbon dioxide as a pollutant and the committee has no plans to do so," said Mike Danylak, spokesman for the Senate Environment and Public Works Committee, the panel that oversees the EPA.

When asked at his confirmation hearing in January whether he would uphold the EPA endangerment finding, Pruitt said it was the "law of the land" and he was obliged to uphold it for now.

Pruitt declined to respond to a question from a reporter after his Houston speech on whether he would now seek to overturn the endangerment finding.

As Oklahoma's attorney general, Pruitt and another dozen attorney generals unsuccessfully challenged the endangerment finding in a federal appeals court.

"The mask is off. After obscuring his true views during his Senate confirmation hearings, Scott Pruitt has outed himself as a pure climate denier," said David Doniger, director of the climate program at the Natural Resources Defense Council.

The new EPA chief said he was committed to ensuring thorough processes for environmental rules and regulations to reduce "regulatory uncertainty."

Pruitt added that he shared Trump's view that the global climate accord agreed by nearly 200 countries in Paris in 2015 was a "bad deal." Trump promised during his campaign for the White House to pull the United States out of the accord, but has since been mostly quiet on the issue.

(Additional reporting by Timothy Gardner and Ernest Scheyder in Houston; Editing by Eric Walsh, Dan Grebler and Bernard Orr)

The Hill

<http://thehill.com/policy/energy-environment/323312-sanders-rips-pruitt-over-co2-comments>

Sanders rips Pruitt over climate change comments

By Nikita Vladimirov 3/9/17, 7:19PM

Sen. Bernie Sanders (I-Vt.) on Thursday blasted the head of the Environmental Protection Agency (EPA) for doubting that carbon dioxide is a "primary contributor" to climate change.

"I wish I could come up with another word — it is pathetic, that that is the position of the administrator of the Environmental Protection Agency," Sanders said in an interview with CNN.

"You have the head of the Environmental Protection Agency who denies ... reality in face of overwhelming scientific evidence — not only is it sad, it is a real threat to the wellbeing of this country and the world."

On Thursday, EPA head Scott Pruitt voiced his view that he "would not agree" that carbon dioxide is a primary contributor to global warming.

"I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact. So no, I would not agree that it's a primary contributor to the global warming that we see," he said.

Sanders, however, maintained that the debate over global warming is over and that carbon dioxide emissions cause "devastating problems" to the planet's climate.

"The debate is over. Something like 97 percent of the scientists who have written peer-reviewed articles on the subject agree that it is human activity and CO2 emissions that are causing devastating problems already in the United States and around the world," Sanders said.

"That you have the Trump administration continuing to deny the reality and the horrors that the climate change is already causing, is very sad indeed."

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The Washington Times

<http://www.washingtontimes.com/news/2017/mar/9/scott-pruitt-turns-epa-away-from-climate-change-ag/>

Pruitt starts steering EPA away from climate change, more toward clean water and air

By Ben Wolfgang 3/9/17

Scott Pruitt on Thursday made clear he doesn't believe carbon dioxide is the main driver of climate change — and his declaration touched off a firestorm among critics who interpret the remark as concrete proof that the EPA administrator plans to disregard the past eight years and take the agency in a new direction.

Mr. Pruitt offered the comments during a morning interview with CNBC as President Trump was preparing to sign an executive order reversing key government regulations on carbon pollution.

The EPA chief told CNBC that it's challenging to truly measure humans' effect on the climate and that there is "tremendous disagreement" about exactly how much carbon pollution contributes to climate change.

“I would not agree that [carbon] is a primary contributor to the global warming that we see,” Mr. Pruitt said.

His remarks put him on the opposite side from most climate scientists, researchers and governments, and underscore a sharp break from the EPA’s approach over the past eight years.

During the Obama administration, the Environmental Protection Agency was the tip of the spear in a governmentwide fight against climate change. The agency crafted rules such as the Clean Power Plan, the nation’s first set of limits on carbon emissions from power plants. That rule, which remains tied up in federal court, now is on the chopping block. Mr. Trump is expected to soon direct the EPA to begin the lengthy, complex process of unwinding the plan.

President Obama saw the EPA as a necessary tool in his climate change agenda, but Mr. Trump and Mr. Pruitt believe the agency should have a more narrow purpose: protecting the nation’s air and water, not trying to stem global temperature rises.

In fact, Mr. Pruitt built his political career challenging the EPA’s carbon rules in federal court while he served as attorney general of Oklahoma.

“The president has made it very clear that the administration is going to refocus EPA on clean air and clean water. Administrator Pruitt is and has been right in line with that approach,” said Michael McKenna, a Republican strategist and president of the lobbying firm MWR Strategies who worked on the Trump transition team.

For environmentalists and Democrats in Congress who already fear what the administration has in store for climate policy, Mr. Pruitt’s remarks went too far.

“There are only two explanations for Mr. Pruitt’s outrageous comment: Either our nation’s chief environmental officer is unaware of basic scientific facts, or he is intent upon misleading the

public,” said Sen. Thomas R. Carper of Delaware, the ranking Democrat on the Senate Environment and Public Works Committee. “Carbon dioxide is one of the most potent and abundant greenhouse gases in our atmosphere, and it is the primary greenhouse gas emitted by human activities. Those are the facts; they are not up for debate. Mr. Pruitt and I can have differences of opinion, and we certainly do, but Mr. Pruitt is not entitled to his own facts.”

Democrats quickly began fundraising off of the issue. House Minority Leader Nancy Pelosi of California used the comments to ask for money Thursday afternoon on behalf of the Democratic Congressional Campaign Committee.

“President Trump appointed a climate change denier to lead the EPA — and now we’re seeing the effects. Grassroots Democrats can’t let these horrifying claims go unnoticed. Will you fight back?” she said in the message.

Michael Brune, executive director of the environmental group the Sierra Club, said the Senate should demand that Mr. Pruitt be removed from his post.

“The arsonist is now in charge of the fire department, and he seems happy to let the climate crisis burn out of control,” Mr. Brune said in a statement. “Pruitt is endangering our families, and any sensible senator should demand he is removed from his position immediately for misleading Congress and being unfit and unwilling to do the job he has been entrusted to do.”

During his Senate confirmation hearings this year, Mr. Pruitt told lawmakers that he believes climate change is real — a statement that put him at odds with Mr. Trump, who has said global warming is a “hoax.”

Much like Energy Secretary Rick Perry and Interior Secretary Ryan Zinke, both of whom were pressed on the same question by Democratic senators, Mr. Pruitt said climate change is real and that mankind has played a role but the extent of the role is unclear.

AP

EPA's Environmental Justice Head Resigns Amid Budget Cuts

3/9/17, 5:21PM

WASHINGTON (AP) -- The head of the Environmental Protection Agency's office on environmental justice has resigned in protest over the Trump administration's proposal to slash funding for programs that help poor and minority communities.

Mustafa Ali, an associate assistant EPA administrator, helped found the environmental justice office in the 1990s and worked under Republican and Democratic presidents.

Ali told InsideClimate News, which first reported on his resignation, that he sees no indication the Trump administration is interested in helping vulnerable communities. He says his "values and priorities seem to be different than our current leadership, and because of that I feel that it's best if I take my talents elsewhere."

Ali's resignation letter urges EPA Administrator Scott Pruitt to reconsider proposals to cut EPA's budget by one-quarter and dismantle the environmental justice office.

InsideEPA

<https://insideepa.com/daily-news/senators-eye-legislation-requiring-agencies-use-best-available-science>

Senators Eye Legislation Requiring Agencies To Use 'Best Available Science'

By Maria Hegstad 3/9/17

The Senate Homeland Security and Government Affairs Committee is weighing how to codify requirements in executive orders that EPA and other federal agencies utilize only the "best available science" in their regulatory decisionmaking, but is likely to take a different approach than EPA-specific science legislation in the House.

"Agencies should rely on the best available information and make decisions based on the weight of that information," said Sen. James Lankford (R-OK), chairman of the committee's Regulatory Affairs and Federal Management Subcommittee in his [opening remarks](#) at a March 9 hearing.

“If past administrations' attempts to encourage agencies to base their regulatory decisions on transparent sound science have failed, Congress should consider establishing new legal requirements,” Lankford added. “I look forward to discussing steps Congress can take to implement these basic and fundamental requirements that have been endorsed by both Democrat and Republican administrations for decades.”

Lankford pointed to examples such as President Bill Clinton's 1993 Executive Order (EO) 12866, directing agencies to “base decisions on the best reasonably obtainable” information and President Barack Obama's EO 13563, directing all agencies to “ensure the objectivity of any scientific and technical information” supporting regulatory decisionmaking.

Lankford raised concerns that despite these directions, agencies have not always met such standards. He pointed to recent EPA regulatory activities, which he suggested did not meet such standards, EPA's 2015 proposal to ban the insecticide chlorpyrifos and “Clean Air Act regulations.”

“Examples like these call into question whether agencies are actually using the best available information available to them when they make regulatory decisions,” Lankford said. “Each administration has their own priorities, but the principles supporting regulatory decisions should remain constant regardless of who occupies the White House.”

In remarks with reporters afterward, Lankford said, “We're not just trying to target EPA,” adding that he is seeking language that would apply broadly to all agencies, unlike other congressional efforts.

Lankford's comments came as the House science committee March 9 approved along party lines two bills that would require EPA to publish all of the data it uses and to restructure its Science Advisory Board.

Lankford, however, reiterated at the hearing the bipartisan support for agencies' use of best available science. “There's been executive orders for many years on best available science,” he said, adding that if there's so much agreement, “Let's move it to statutory language.”

Scientists' Concerns

But one witness at the hearing raised concerns about the idea. Andrew Rosenberg, director of the Union of Concerned Scientists' Center for Science and Democracy, argued in his written testimony that “if one were to legislate what should be legally considered 'best available science,' it would prevent the innovation and flexibility that is inherent in the scientific process. This ability to learn is essential for agencies as they address new discoveries like autonomous vehicles and advancements in nanotechnology.”

Rosenberg added that “science continues to evolve. New research leads to a better understanding of complex challenges that we face today, allowing experts to make appropriate determinations, sometimes erring on the side of caution when faced with uncertainty or limited data to best protect the public.”

Sen. Maggie Hassan (D-NH), asked Rosenberg to elaborate on these concerns at the hearing. Rosenberg replied, “If you legislate best available science, that is exactly what agencies will do and not deviate, even if there is a better approach, even if there is new science . . .”

But the other two witnesses at the hearing encouraged Lankford's efforts. Nancy Beck, senior director of regulatory science policy at the chemical industry association American Chemistry Council, told Lankford that there is a definition of weight of evidence that she would like to see EPA adopt, a definition the Senate discussed last June during debate on the Lautenberg Chemical Safety for the 21st Century Act (LCSA), which revised the Toxic Substances Control Act.

In her written testimony, Beck provided four recommendations to improve regulatory science, by clarifying scientific definitions, improving oversight and developing “quality checklists,” improving peer review practices and changing “publication incentives and standards for scientific grants funding.”

As an example, Beck points to the Lautenberg Act, which includes some language requiring EPA's use of best available science in conducting its risk evaluations of chemicals. “ACC believes that the intent of Congress in drafting the scientific standards in the LCSA is clear. It is also clear that EPA’s proposed interpretation diverges from Congressional intent in important

respects,” Beck's testimony states.

Beck continues, “Clarifying that the intent of scientific standards is to improve existing Agency practices would be useful. In addition, providing clear and specific definitions for terms like best available science and [weight of evidence] would be beneficial to the consistency, reliability and credibility of EPA’s regulatory decisions. These definitions should address not only what Agencies should consider when evaluating scientific information, but also what information Agencies should present in evaluations.”

Susan Dudley, director of the George Washington University Regulatory Studies Center, also backed the committee's efforts, noting her written testimony that “[e]ffective regulatory policy that focuses resources on addressing real threats to public health and the environment depends on reliable scientific information and transparent policy choices.”

Dudley added that “clarifying which aspects of the decision are matters of science and which are matters of policy is essential to avoid both hidden policy judgments and the science charade.”

But Sen. Tom Carper (D-DE), seemed to question the necessity of such a bill in his questions to the witnesses. He noted that regardless of any change in law on scientific standards, the Administrative Procedure Act requires agencies to conduct cost-benefit analyses as part of the rulemaking process, among other restraints, and that regulated entities can sue if EPA fails to meet these requirements.

House Bills

Meanwhile, the House Science, Space and Technology Committee voted two bills, H.R. 1430 and H.R. 1431, to the House floor on party-line votes. H.R. 1430 is a reprise of Chairman Lamar Smith's (R-TX) “secret science” bill of previous sessions. The intent of the bill is to require EPA to use the “best available” reproducible science in developing rules and to make all data underlying its rules publicly available. Such a mandate would be challenging with some of the data that EPA relies on, such as epidemiological data and medical records, confidential business information, or even data with certain copyright protections.

Lankford, in the Senate hearing, mentioned several of these concerns and sought witnesses' advice on what he suggested was the challenge of addressing them. "We are seeking a way to . . . solve this legislatively. We do not want to overreact in what is done and . . . squash the future of science, or to be able to compel people not to do research or put information that should not be in the public domain there," he said.

Smith, in the House science committee's March 9 markup, touted changes to the bill that he said address concerns about the release of private and confidential information. "I really think we've addressed the concerns," he said.

H.R. 1430 now states that if passed, the EPA must only rely on information that is publicly available online "except that any personally identifiable information, trade secrets, or commercial or financial information obtained from a person and privileged or confidential, shall be redacted prior to public availability."

The new bill further states that such "redacted information . . . shall be disclosed to a person only after such person signs a written confidentiality agreement with the Administrator, subject to guidance to be developed by the Administrator." -- *Maria Hegstad* (mhegstad@iwpnews.com)

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17[Actadmmccabe.catherine17@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Fri 3/10/2017 4:57:01 PM
Subject: RE: OPA Clips 3/10/17

Below: Quartz, Politifact, AP, Bloomberg, Wall Street Journal, Automotive News, Huffington Post, BNA (5), InsideClimate News, Reuters (3/9), The Hill (3/9), The Washington Times (3/9), AP (3/9), InsideEPA (3/9)

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Quartz

<https://qz.com/929392/on-scott-pruitt-and-co2-what-happens-when-science-becomes-a-matter-of-belief/>

On Scott Pruitt and CO2: What happens when science becomes a matter of belief?

By Zoe Schlanger 3/10/17

Speaking to CNBC on March 9, Scott Pruitt, the current head of the US Environmental Protection Agency, crossed a threshold even most climate “skeptics” would consider fringe: He said he did not believe that carbon dioxide is the primary driver of global warming.

This isn’t up for debate. An increase of carbon dioxide, or CO2, in the atmosphere has been proven by copious scientific evidence to be the primary driver of climate change.

Even people who reject the scientific consensus on global warming tend not to go quite that far.

They may believe, as both Rex Tillerson (current Secretary of State) and Rick Perry (current Secretary of Energy) say they do, that climate change is real but that we cannot predict “with precision” just how much humans are to blame, or whether it’s bad enough to do something about (though both of those statements are also scientifically untrue). Climate deniers with more extreme views say global warming is all part of a natural fluctuation that humans couldn’t cause or stop if they wanted to (also untrue).

But Pruitt went a leap further. “Do you believe that it’s been proven that CO2 is the primary control knob for climate?” asked Joe Kernin, co-host of the CNBC morning show “Squawk Box.”

“No,” Pruitt replied. “I think that measuring with precision human activity on the climate is something very challenging to do and there’s tremendous disagreement about the degree of impact, so no, I would not agree that it’s a primary contributor to the global warming that we see.”

Scientists have known for a long time that CO2 is, in fact, the primary driver of our current warming trend. Other greenhouse gases, like methane and ozone, also contribute. But CO2 is way out in front of all of them in terms of how much it increases “radiative forcing”—in other words, how much it increases the difference between the sunlight absorbed by the Earth and the energy our planet radiates back into space.

In fact, scientists at the EPA, who are now Pruitt’s employees, are very, very sure about this. They used air bubbles trapped in ice cores to track measurements of atmospheric carbon dioxide through 800,000 years of Earth’s history.

See that spike in the graph on the left? That’s CO2 levels soaring far above anything resembling natural levels. CO2 concentrations have increased 40% over pre-industrial levels.

“Atmospheric carbon dioxide measurement precision is accurate enough to know that today’s levels are not natural,” Brenda Ekwurzel, a senior climate scientist at the Union of Concerned Scientists, wrote in a blog post after the CNBC clip was released.

To take it a step further, scientists can *also* say with certainty that all this CO₂ was released into the atmosphere by human activity, namely burning things—like coal, oil, and natural gas. Scientists can actually identify how much atmospheric CO₂ is made up of CO₂ from burning fossil fuels based on the ratios of certain carbon isotopes, Ekwurzel noted.

“With a very high level of confidence, the increase in CO₂ emissions from fossil fuel burning and those arising from land use change are the dominant cause of the observed increase in atmospheric CO₂ concentration,” scientists wrote in a 2013 Intergovernmental Panel on Climate Change assessment report.

In other words, the climate is warming, and human activity is the primary reason. The idea that this is uncertain is contrived.

It’s easy to believe this reality, as long as you believe in climate science as a field of scientific inquiry. But the majority of Americans don’t. A Pew poll from 2016 found that only 33% of those surveyed feel climate scientists “understand very well” whether climate change is occurring at all, and only 28% said scientists know the cause of climate change. Even fewer—27%—believe that “almost all” scientists say climate change is human-caused—even though in reality, they do. Only 39% of Pew survey respondents said they have “some” trust in climate scientists to provide a “full and accurate portrait of the causes of climate change.”

With such an extreme lack of confidence in the institution of climate science itself, the fact that Pruitt is factually wrong may fall on deaf ears—or more likely, reinforce a widely held falsehood.

“It is worth pointing out that administrator Pruitt’s blatant denial of well-established scientific facts is more than just egregious,” Ekwurzel wrote. “It is also at odds with his testimony in his confirmation hearing and in no way changes his legal obligation to regulate carbon dioxide as a pollutant.”

PolitiFact

<http://www.politifact.com/truth-o-meter/statements/2017/mar/10/scott-pruitt/epa-head-scott-pruitt-says-carbon-dioxide-not-prim/>

EPA head Scott Pruitt says carbon dioxide is not ‘primary contributor’ to global warming

By Lauren Carroll 3/10/17, 11:10AM

The new head of the Environmental Protection Agency Scott Pruitt says carbon dioxide is not a primary contributor to global warming.

"Do you believe that it's been proven that CO2 is the primary control knob for climate?" CNBC anchor Joe Kernen asked Pruitt in a [March 9 interview](#).

"No, I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact," Pruitt responded. "So no, I would not agree that it's a primary contributor to the global warming that we see."

Scientists around the globe generally conclude that human activity is the leading cause of climate change because humans have exacerbated the Earth's greenhouse effect, mainly by producing carbon dioxide.

Compare Pruitt's statement with one on [his agency's website](#), for example: "It is extremely likely that human activities have been the dominant cause of that warming," and then, "Carbon dioxide is the primary greenhouse gas that is contributing to recent climate change."

Environmental activists opposed Pruitt's nomination, in part because in his former role as attorney general of Oklahoma, Pruitt [sued the EPA more than a dozen times](#) over air and water pollution regulations.

However, Pruitt has said he believes in climate change and that human activity is contributing to that change, though he is unconvinced of the extent of human-caused factors.

"The climate is changing, and human activity impacts that," he said in his Senate confirmation hearing.

When we reached the EPA for comment, they did not provide us with information to back up Pruitt's claim.

The normal environment of the earth is that several types of gas stick in the atmosphere and trap excess heat, including carbon dioxide, water vapor, methane and nitrous oxide, making a natural "greenhouse." Since the Industrial Revolution in the early 1800s, humans have changed the composition of the greenhouse — leading to climate change — by releasing significant amounts of carbon dioxide into the air primarily through burning fossil fuels.

"Pruitt is incorrect. CO2 is a primary contributor to global warming. That fact is not in dispute among climate scientists," said Anne Slinn, executive director for research of the Center for

Global Change Science at the Massachusetts Institute of Technology.

This chart from the National Oceanic and Atmospheric Administration shows that even though the earth has experienced fluctuations in carbon dioxide levels throughout its history, there's more carbon dioxide now than there has been in at least 400,000 years.

The previous peak carbon dioxide concentration was about 300 parts per million, 300,000 years ago. Today, the count is more than 400 parts per million.

By the end of the 1970s, before global warming was readily apparent, scientists had already formed a consensus that human-produced carbon dioxide would cause the climate to change. And by the mid-1990s, scientists understood that global warming had already occurred over the past 100 years, and carbon dioxide was a substantial cause, said Ralph Keeling, director of the Scripps CO2 Center at the University of California, San Diego.

"Administrator Pruitt's statement means that he does not accept the overwhelming scientific consensus," said Stephen Pacala, co-director of Princeton University's Carbon Migration Initiative, pointing to a 2013 report out of the Intergovernmental Panel on Climate Change.

We reached numerous climate experts, all of whom reiterated the view that Pruitt's claim is contrary to the prevailing scientific thought. For a perspective outside the norm, we also reached out to Roger Pielke Sr., an emeritus professor of atmospheric science at Colorado State University, who has argued that carbon dioxide is one of many human-caused factors contributing to long-term changes in the climate, but it's not the dominant one. For example, the release of black carbon (soot) or land use changes might have a larger effect on the climate relative to carbon dioxide than is currently believed.

In Pielke's view, a more accurate version of Pruitt's statement would be: "I would not agree that CO2 is the only contributor to changes and longterm variations in climate."

Our ruling

Pruitt said carbon dioxide is not "a primary contributor to the global warming that we see."

The prevailing scientific consensus is that human production of carbon dioxide since the Industrial Revolution is a leading cause of climate change. Some scientists may quibble over how much of the change can be attributed specifically to carbon dioxide, but there is no doubt that it plays an important role.

We rate Pruitt's claim False.

AP

<http://bigstory.ap.org/article/bcf3299ea77b4afd8bbc4750978cb28d/volkswagen-pleads-guilty-us-diesel-emissions-scandal>

Volkswagen pleads guilty in US diesel emissions scandal

By Tom Krisher and Ed White 3/19/17, 10:55AM

DETROIT (AP) — Volkswagen pleaded guilty Friday to conspiracy and obstruction of justice in a brazen scheme to get around U.S. pollution rules on nearly 600,000 diesel vehicles by using software to suppress emissions of nitrogen oxide during tests.

The German automaker has agreed to pay \$4.3 billion in civil and criminal penalties — the largest ever levied by the U.S. government against an automaker — although VW's total cost of the scandal has been pegged at about \$21 billion, including a pledge to repair or buy back vehicles.

U.S. regulators confronted VW about the software after West Virginia University researchers discovered differences in testing and real-world emissions. Volkswagen at first denied the use of the so-called defeat device but finally admitted it in September 2015.

Even after that admission, company employees were busy deleting computer files and other evidence, VW's general counsel Manfred Doss acknowledged to U.S. District Judge Sean Cox.

Summing up the scandal, Assistant U.S. Attorney John Neal said it was a "calculated offense," not a "momentary lapse of judgment."

Although the cost is staggering and would bankrupt many companies, VW has the money, with \$33 billion in cash on hand. Volkswagen previously reached a \$15 billion civil settlement with U.S. environmental authorities and car owners.

Under its agreement, VW must cooperate in the investigation and let an independent monitor oversee compliance for three years. Separately, six Volkswagen employees face criminal U.S. criminal charges in the scandal.

Bloomberg

<https://www.bloomberg.com/view/articles/2017-03-10/only-congress-can-stop-california-s-emissions-rules>

Only Congress Can Stop California's Emissions Rules

By Noah Feldman 3/10/17, 9:00AM

The Trump administration is considering a new assault on American legal and constitutional structures by taking on federalism -- and vehicle emissions. Specifically, the Environmental Protection Agency reportedly will try to revoke a waiver that California has enjoyed for 45 years, which allows the state -- and any state that wants to copy it -- to regulate tailpipe

emissions more stringently than the federal government does.

A revocation by President Donald Trump and the executive branch is almost certainly unlawful. The Clean Air Act expressly says that California must be granted the waiver if its emissions rules are “at least as protective of public health and welfare” as the federal government’s. That means anything more protective must be granted. If the revocation happens, there is sure to be a protracted legal fight.

The stakes are high for the environment. Because 15 states follow California, and cars sold in states bordering those states may comply with California rules, 130 million people are potentially affected.

But the stakes are also high for the federal design of the Constitution. The California waiver provision reflects the delicate balance between states and the federal government in environmental regulation. Revoking it falls within Congress’s power, not the president’s.

The Clean Air Act’s waiver provision is unusual -- and it flows from federalism principles.

Under the Constitution, as a default, both states and the federal government share the capacity to regulate most activities. The states have an inherent regulatory power, known as the “police power.” The federal government gets its power to regulate from Congress’s authority to make laws on matters affecting interstate commerce. State and federal power can overlap, as in the case of the punishment of drug crimes.

Because federal law is the supreme law of the land, according to the Constitution, federal law trumps state law when the two conflict.

Congress has a special power that allows it to deal with that conflict by barring states from regulating in areas where they might interfere with federal rules. This power is called “preemption”: Congress “preempts” state law when it has occupied the whole field of regulation to the exclusion of the states. Sometimes Congress says expressly that it’s preempting state laws; sometimes the preemption is implicit.

The Clean Air Act is an example of federal preemption -- in part. Section 7543 of the law says that no state “shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles.” That includes “certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle.”

Yet as soon as the law takes away states’ regulatory power, it restores it to California. The law says the EPA administrator “shall ... authorize California to adopt and enforce standards.” It’s up to California (not the federal government) to determine “that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.”

The only ways to block California from using its own standard are if the EPA administrator determines that the California rules are arbitrary and capricious -- which they aren’t -- or if “California does not need such ... standards to meet compelling and extraordinary conditions.”

So long as Los Angeles has smog, the conditions for restricting emissions are going to be compelling.

The historical reason for this design is that California had been regulating emissions long before the federal government got into the act.

But the structural reason is that California had the influence in Congress to make sure its regulatory power was preserved even after the Clean Air Act was passed. The true balance between state and federal authority is worked out in Congress, where the states can have a real impact on lawmaking.

Thus, it's not up to the president to change the balance of power -- particularly not when Congress has already spoken.

And that's what Trump's EPA is doing by considering the revocation of the waiver that has been in place since just after the law was passed in 1970.

There is some existing legal uncertainty about whether the waiver may be used by California to regulate greenhouse-gas emissions. The George W. Bush administration said it couldn't, but before that claim could be reviewed by the courts, Barack Obama was elected and granted the waiver.

The best reading of the law is that it does extend to greenhouse gases. But what's more important is for the executive branch to recognize that Congress has preserved California's authority, and that it should respect that decision.

Otherwise, the president without Congress would be able to change the state-federal balance. And that's unconstitutional.

Wall Street Journal

<https://www.wsj.com/articles/volkswagen-pleads-guilty-to-criminal-charges-in-emissions-cheating-scandal-1489161238>

Volkswagen Pleads Guilty to Criminal Charges in Emissions-Cheating Scandal

By Mike Spector and Mike Colias 3/10/17, 11:42AM

Volkswagen AG pleaded guilty to criminal charges for rigging diesel-powered vehicles to cheat on government emissions tests, capping the final significant U.S. legal settlement expected in a long-running deception that hammered the German auto company's reputation and finances.

In an unprecedented resolution for a criminal case involving an automotive company, Volkswagen pleaded guilty in a Detroit federal court Friday to conspiracy to defraud the U.S., commit wire fraud and violate the Clean Air Act; obstruction of justice; and import violations. The auto maker's plea agreement includes a \$2.8 billion criminal fine and resolves a longstanding Justice Department probe.

Volkswagen has also agreed to an additional \$1.5 billion civil penalty to settle the U.S. investigation. That is on top of previous civil settlements with consumers, regulators, dealers and state attorneys general in the U.S. that could cost Volkswagen more than \$20 billion. Some current and former Volkswagen executives and employees were separately charged in the criminal probe, but weren't the subject of Friday's hearing.

Volkswagen General Counsel Manfred Döss entered Friday morning's guilty plea on the company's behalf before U.S. District Judge Sean F. Cox. The company was arraigned on the charges earlier before a magistrate judge in a separate hearing. Volkswagen signed a plea agreement with U.S. prosecutors in January, weeks before Friday's formal court hearings.

Judge Cox said he would forego sentencing until April 21. That final step would formalize Volkswagen criminal penalties that include the assignment of an independent monitor to audit its regulatory compliance practices for at least three years.

"Volkswagen's offenses are very, very, very serious," the judge said. "I just want more time to reflect and study."

The guilty plea codified Volkswagen's admission to conspiring for nearly a decade to deceive U.S. officials with illegal software known as defeat devices that allowed nearly 600,000 diesel-powered vehicles to pass emissions tests and then pollute beyond legal limits on the road.

The U.S. Environmental Protection Agency disclosed Volkswagen's deception in September 2015 and said the company's vehicles spewed toxic tailpipe emissions up to 40 times above allowable levels. Volkswagen admitted to installing the problematic software on some 11 million vehicles globally, sparking government hearings, litigation and investigations around the world targeting the company and many of its senior executives.

Volkswagen's emissions fraud was "a very well thought out, calculated, well-planned offense," said Assistant U.S. Attorney John Neal during Friday's court hearing, adding the conspiracy reached the "highest levels of the corporation."

Mr. Neal added that the government could have fined Volkswagen up to \$34 billion, but assessed a lower figure given the auto maker's cooperation with the investigation, previous large civil settlements and efforts to compensate consumers affected by its deception.

Mr. Döss said during court proceedings that some Volkswagen supervisors and employees destroyed documents and files when learning of the emissions probe, and that the auto maker had deceived U.S. environmental regulators and customers.

A federal grand jury separately indicted seven Volkswagen executives and employees for their role in the emissions fraud. Many of them are believed to reside in Germany and it isn't clear whether they will travel to the U.S. to face charges.

U.S. authorities arrested one of them, Oliver Schmidt, the former head of Volkswagen's Environment and Engineering Office in Auburn Hills, Mich., in January at Miami International Airport as he prepared to travel home to Germany. After being transferred to Detroit, he pleaded not guilty to criminal charges and is being held at an area jail awaiting trial.

An engineer who pleaded guilty to criminal conduct for helping Volkswagen cheat on emissions tests, James Liang, is scheduled to be sentenced in May.

Former Volkswagen Chief Executive Martin Winterkorn resigned in the wake of the emissions crisis, and the company then suffered sales declines and financial losses, in part due to freezing affected vehicles on U.S. dealer lots. But the auto maker reported a profit for 2016 and passed Toyota Motor Corp. as global car-sales leader. Volkswagen recently curbed executive pay amid investor ire emanating from the emissions deception.

Still, the corporate criminal case against Volkswagen represented the harshest punishment yet stemming from an unprecedented government crackdown on automotive firms for safety and environmental lapses. Along with stiff financial penalties, prosecutors have been seeking charges against executives and employees implicated in auto-industry scandals.

Takata Corp. in January pleaded guilty to criminal wrongdoing and agreed to \$1 billion in penalties to resolve an investigation of the Japanese supplier's handling of rupture-prone air bags linked to numerous death and injuries and historic recalls. Three executives were also charged.

Toyota and General Motors Co. in recent years settled criminal cases resulting from safety transgressions without pleading guilty to charges and suffering smaller financial penalties than that to which Volkswagen agreed.

In the waning days of the Obama administration, U.S. environmental regulators accused Fiat Chrysler Automobiles NV of using emissions software on diesel-powered Jeep Grand Cherokee sport-utility vehicles and Ram pickup trucks that allowed them to spew illegal levels of pollution. Officials stopped short of saying the software was designed to cheat emissions tests as Volkswagen's did. The Italian-U.S. auto maker has denied wrongdoing.

—Christina Rogers contributed to this article

Automotive News

<http://www.autonews.com/article/20170309/OEM/170309755/vw-pleads-guilty-to-3-felonies-in-deal-to-settle-u-s-emissions-case?ccid=email-autonews-blast>

VW pleads guilty to 3 felonies in deal to settle U.S. emissions case

By Larry P Vellequette 3/10/17, 10:00AM

DETROIT -- The largest automaker in the world is now officially a felon in the United States, but its sentencing will have to wait.

Volkswagen Group pleaded guilty Friday in U.S. District Court here to three felonies under a plea agreement: conspiracy, obstruction of justice and introducing imported merchandise into the United States by means of false statements.

The guilty pleas accepted by District Judge Sean Cox settle claims by the EPA and U.S. Customs and Border Protection for VW's importation of almost 590,000 turbodiesel vehicles that violated clean air regulations.

However, the judge said at the end of an 70 minute hearing that he wanted more time to consider the settlement's \$4.3 billion in fines and other actions given the "serious nature" of the crimes.

Friday was the first time the company has pleaded guilty to criminal conduct in any court in the world, a company spokesman told Reuters.

The settlement, first announced in January, calls for VW to pay \$4.3 billion in penalties and for the automaker to continue to fully cooperate with federal and state investigators. The settlement also would subject VW to an independent monitor for at least three years as well as a number of other consolations to ensure that it will comply with the law in the future.

Cox scheduled a hearing on sentencing for April 21 at 9:30 a.m.

If VW hadn't settled, it would have faced potential fines in the cases of between \$17 billion and \$34 billion.

Explanation of charges

In court today, VW General Counsel Manfred Doess initially stood mute before District Magistrate Judge Anthony Patti as the company was arraigned prior to entering its plea. However, in a hearing about a half hour later before Cox, Doess entered guilty pleas on behalf of VW to all three felony counts.

Doess has been VW general counsel since Jan. 1, 2016. Cox questioned Doess for several minutes, verifying his age, his position and his education, and whether the corporation had availed itself of outside counsel.

Cox then spent several minutes going through the charges against the automaker: how it had conspired to defraud the government, how it had obstructed justice by concealing defeat devices from regulators and destroying evidence, and how it had imported the illegally polluting turbodiesels to the United States beginning in 2009.

After fully explaining the charges, the law and the plea agreement between VW and the U.S. Justice Department to Doess, Cox accepted VW's guilty pleas at 10:36 a.m., 50 minutes after the hearing began.

Asked by Cox to explain what the company had done, Doess was clear: "VW is pleading guilty to the information because it is guilty to all three counts," Doess said. He went on to describe what VW had done and where and how it had flouted the law.

After the plea was entered, attorneys for the government and VW talked about the company's efforts to "make things right," and how it has cooperated with the probe, including providing

information that it has discovered during an ongoing internal investigation “in real time” to government investigators.

The automaker’s use of “defeat device” software to skirt emissions tests was first discovered in 2014 by researchers at West Virginia University who tested turbodiesels from VW, Audi and BMW. The researches discovered that the VW and Audi turbodiesels emitted many more times the levels of NOx as were allowed when on the road, but complied when they were being tested in the laboratory.

However, it wasn’t until September 2015 that VW finally admitted to using the software to cheat U.S. emissions tests. The ensuing scandal ignited a global firestorm, resulting in almost \$24 billion in costs just in North America.

VW’s legal peril with the U.S. government may be over, but its buybacks continue, as does civil litigation in the U.S. and criminal investigations elsewhere around the globe, including in its German homeland. More than 11 million vehicles are affected globally.

As of Feb. 18, the most recent report available, VW had completed 137,985 closings and paid out \$2.89 billion to owners and current lessees.

VW is processing about 15,000 closings per week and is expected to continue the pace “for the foreseeable future,” according to the latest report filed by the independent claims supervisor.

VW cooperating

As part of the plea agreement, VW must “fully cooperate” with ongoing investigations. So far, the U.S. Justice Department says, the automaker is doing so.

In the plea agreement released in January, the government says VW has already “gather[ed] substantial amounts of evidence and perform[ed] forensic data collections in multiple jurisdictions” and interviewed hundreds of witnesses in the U.S. and overseas, sharing that information with investigators.

The government also credited VW for recovering numerous documents that were deleted by employees after VW’s emissions cheating was discovered in 2014. It also credited VW for improving its whistleblower system in the wake of the scandal and for making other changes to its corporate structure to better guard against a similar scandal in the future.

The automaker will hold its annual press conference next week in its home in Wolfsburg, Germany, where top executives are expected to comment more fully on the ongoing scandal.

Huffington Post

http://www.huffingtonpost.com/entry/epa-environmental-justice-cuts_us_58c18d5ee4b054a0ea68ad0c

Here's What We Lose If We Gut The EPA's Environmental Justice Work

By Joseph Erbentraut 3/10/17, 11:21AM

With the abrupt resignation of its leader, the fate of the Environmental Protection Agency's environmental justice program appears to be practically sealed.

On Thursday, InsideClimate News reported that Mustafa Ali, who has been heading the EPA's environmental justice work and helped found the program in 1992, had resigned from his post.

Ali told the site in an interview that he sees the work he was part of as critical to the EPA's overall function, but indicated that he doesn't believe the agency's current leaders share that belief.

"My values and priorities seem to be different than our current leadership and because of that I feel that it's best if I take my talents elsewhere," Ali said.

The program, which helps disadvantaged communities push back against industry pollution, appears bound for a drastic, 78-percent funding cut according to preliminary Office of Management and Budget numbers reported by The Oregonian and confirmed by other media outlets last week. The cuts would essentially gut the program, reducing its funding from \$6.7 million to just \$1.5 million.

In his resignation letter, shared widely across Twitter on Thursday, Ali pleaded with EPA chief Scott Pruitt to continue to support the office. Ali credited it with bringing together community groups, government and industry interests "to find collaborative solutions to many of the country's most serious environmental and public health issues and concerns" in more than 1,000 communities over the course of his time there.

"I strongly encourage you and your team to continue promoting agency efforts to validate these communities' concerns, and value their lives," Ali wrote in the letter.

EPA officials did not respond to a request for comment on Ali's resignation, but Lisa Garcia, who previously headed up the agency's environmental justice work, said she was "outraged" by the news.

"I think this shows that this administration has no idea how valuable the office of environmental justice is," Garcia, who left the EPA in 2014 to work at [Earthjustice](#), a nonprofit environmental advocacy group, told The Huffington Post.

The program has operated for years with a shoe-string staff and a tiny budget — just 0.08 percent of the agency's \$8 billion budget, which itself represented just [0.22 percent](#) of federal spending last year.

So, Garcia added, if the agency is going to be tasked with doing more with less, the environmental justice program should be emulated — not eliminated.

"This decision shows how fiscally irresponsible they are and how they are absolutely making uneducated decisions," Garcia said. "They aren't looking at the facts and they really don't care about people because this is the one program that focuses on some of the most vulnerable communities. It smacks of elitism and racism if this is where they think the cuts can come from."

The EPA's environmental justice program, which was originally called the environmental equity office, was [established in 1992](#) following the release of a series of [damning reports](#) that found industry polluters like toxic waste sites were disproportionately located in low-income communities of color when compared to wealthier, whiter neighborhoods.

The program aimed to address the problem of minority and low-income communities' heightened exposure to these pollutants, providing small grants to help communities both create and implement local solutions to environmental justice concerns where they live.

It's had [many achievements](#). In just one example, a community organization in Spartanburg, South Carolina, helped a neighborhood surrounded by [Superfund sites](#) and [Brownfields](#) leverage a \$20,000 EPA grant into cleanup efforts that led to more than [\\$270 million in investments](#) like community health centers, affordable housing, a recreation center, gardens and green space.

In a 2015 agency blog post, former EPA Administrator Gina McCarthy called the Spartanburg

effort “a shining beacon of what’s possible when folks impacted by community decisions have a seat at the table.”

Garcia cited other examples of the program’s success: A small EPA environmental justice grant helped the residents of Tonawanda, New York, study the level of toxic benzene in their air — information that they used to force an industry polluter to cut its emissions, resulting in improved air quality. Another similar grant helped Asian-American groups in Seattle develop stormwater retention solutions that helped them revitalize the city’s Chinatown district with urban gardens.

Improvements like these don’t appear to be a priority for the EPA under the Trump administration. Though Pruitt has commented in recent interviews that he will push back against certain agency cuts proposed by the OMB, he has not named environmental justice among them.

This would provide a stark contrast to the way in which environmental justice was prioritized at the EPA under the Obama administration, most plainly evidenced by the long-term goals set forth in the Plan EJ 2014 and 2020 EJ Action Agenda reports that mapped out a comprehensive, agency-wide environmental justice strategy.

The EPA clearly has a long way to go in that regard. A report released last year by the U.S. Commission of Civil Rights found that the agency has a long track record of extremely delayed responses to environmental justice concerns. A separate report from the Center for Public Integrity found that the agency has been “chronically unresponsive” to such complaints.

Despite the previous administration’s mixed record on environmental justice, advocates fear that the program’s gutting will cause the agency to backtrack on the progress that has been made at a time when situations like the water crisis in Flint, Michigan, have shown how high the stakes in these matters can be.

Still, the cuts did not come as a surprise to some environmental justice advocates like Kay Cuajunco, a spokeswoman for the California Environmental Justice Alliance.

“We knew that environmental justice communities — low-income communities and communities of color — would be the first and worst hit under the new administration,” Cuajunco told HuffPost. “They have always been disproportionately impacted by pollution, and now the scale of attack will be bigger and the few backstops we’ve had will be gone.”

Other advocates are already preparing to push back against the cuts. And it starts with holding Pruitt to remarks he made during his Senate confirmation process, according to Michele Roberts, national co-coordinator of the [Environmental Justice Health Alliance](#) nonprofit.

In response to questions from Sen. Cory Booker (D-N.J.), Roberts noted, Pruitt [indicated](#) that he recognized the importance of environmental justice efforts and planned to “protect human health and the environment for all Americans.”

“We would think that whatever these programmatic changes he’s proposing would uphold the words that he listed off that he would honor during his hearing,” Roberts told HuffPost. “If he’s committed to all those things, the environmental justice program is not on the chopping block. But I’m just using his words.”

The OMB’s proposed cuts to the EPA total [about 25 percent](#) of its overall budget and would eliminate 1 in 5 of the agency’s employees. Some programs — like beach water quality state grants and [Great Lakes](#), Chesapeake Bay and Puget Sound restoration efforts— are essentially eliminated in the proposal, while climate and Brownfield programs are also slated for major cuts.

Many of these cuts beyond the environmental justice program would also disproportionately impact lower-income communities and communities of color, environmental groups have noted.

“While this ‘zero out’ strategy would impact nearly every community in the United States, a close examination shows the burden of these cuts will fall hardest on the health of low-income Americans and people of color,” Travis Nichols, [Greenpeace USA](#) spokesman, said in a previous statement. “This is environmental racism in action.”

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EPA Will Consider All Options as It Looks at Budget, Pruitt Says

By Nushin Huq

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The EPA is in the early stages of talking to the White House about its budget, but these discussions have been largely positive, agency administrator Scott Pruitt said.

The Environmental Protection Agency is looking at everything from downsizing regional offices to empowering states to take lead roles in regulating air and water pollution, according to Pruitt.

“What's key is that this is the beginning of the process,” he told Bloomberg BNA March 9 ahead of his speech in Houston at IHS Markit's CERAWeek, an annual energy conference. “It's something that plays out over a period of time.”

A recent proposal from the Office of Management and Budget calls for a 20 percent cut to EPA staff and slashing the agency's budget by 25 percent. Under the proposed spending plan, the EPA could reduce grants to states by 30 percent in fiscal year 2018, putting about 20 grants on the chopping block. There also have been reports that the agency will reduce the number of regional offices from 10 to eight.

The White House budget proposal is set to be released next week.

Regional EPA offices play an important role, Pruitt said, calling them an outpost that's there to help inform and formulate decisions in Washington. All that will be reviewed when the agency decides how many regional offices should remain operational.

Pruitt said he wants states to take a lead role in regulating air and water pollution and the federal government to play a partnering role. Most states have their own environmental regulator, which has expertise and resources that federal regulators don't have, he said.

There's determination, commitment and a belief across-the-board on the importance of partnering with states, Pruitt said when asked about safeguarding EPA state and tribal grants. He didn't expand on whether those grants will be reduced or by how much.

Another area of interest are more than 1,300 Superfund sites, according to Pruitt.

“We're going to come in and show true tangible environmental benefits and getting those sites cleaned up,” he said. “There's also the Brownfields Program, a variation of that, local community level.”

Senate Confirmations

Pruitt hopes the Senate confirmation process to fill EPA positions will begin soon, though he didn't offer a time frame. There are many positions, not just within the agency, that require Senate confirmation, making it difficult to predict when positions such as EPA general counsel and deputy administrator will begin.

“There are many names that I think are in the hopper process,” Pruitt said. “We'll work to get our names there and process those in a good, timely way. We've tried to do all we can to get those names vetted and discussed, evaluated, but it takes a little time.”

Pruitt could fill some positions with transition people and said his focus won't be on whether those individuals are inside the agency or outside, but where they fit in the EPA's mission.

“That's going to be the focal point,” he said.

Clean Power Plan

The U.S. Supreme Court's decision to stay the Clean Power Plan, which limits carbon dioxide emissions from power plants, and its narrowing of the tailoring rule, which set greenhouse gas permitting requirements for large stationary sources of air emissions, provide strong arguments for rolling back the Clean Power Plan, Pruitt said.

An administrator just needs reasonable basis to withdraw a rule, he said.

“The Supreme Court said it's [Clean Power Plan] likely unlawful,” Pruitt said. “To issue a stay, the legal standard, the two part standard, the most important in my view, is the court's determination that a particular decision is likely. And in this instance, likely unlawful.”

The stay provides reasonable basis, and the agency's resources are better spent in other ways, he said.

Infrastructure

Pruitt has been in several meetings at the White House to discuss water infrastructure, something he is excited about, he said.

“The president has asked me to serve on a group of Cabinet officials with respect to water infrastructure,” Pruitt said. “I was in a meeting as recent as yesterday with a group of CEOs from across the country. The president acknowledges that the infrastructure package is not just road and bridges.”

Conference Speech

In the past couple of years, there's been a mind-set that you can't be pro-energy and pro-environment, Pruitt told conference attendees during a luncheon address. That simply is not true. One can be pro-growth and pro-environment, he said.

There's been a disregard for process by federal agencies for the past couple of years, according to Pruitt. Litigation has driven the regulatory agenda, he said by having lawsuits and consent agreements filed instead of rulemaking.

“The sue-and-settle practice through consent decrees has been something that the EPA and other agencies have used, I think, to the detriment of the people that we serve,” Pruitt said. “That will change under our administration.”

Other agencies, such as in health care and finance, have used guidance documents to engage in rulemaking. That abuses the process that Congress has set up, he said. “We’re going to respect process,” Pruitt said.

Part of the problem is that Congress, in some instances, has not done its job, he said.

“It puts an agency in the executive branch in a difficult position because you don’t have a framework. They haven’t spoken,” Pruitt said. “Each of the branches needs to do its job.”

Methane

The EPA withdrew its request for information sent to oil and gas companies on methane emissions because first there needs to be a discussion around methane, how to better capture it and ensure that it’s used in a productive way, Pruitt told IHS Markit Vice Chairman Dan Yergin, in a question-and-answer after his speech.

“Sometimes, regulators don’t realize that methane is valuable,” Pruitt said. “It needs to be captured and used. So it’s not waste per se. Now it can cause harm to the environment; it can cause harm to individuals.” He said it was premature to ask for information on methane before having a discussion about it.

Power

“Regulators shouldn’t use their power to pick winners and losers,” Pruitt told Yergin. “We ought to set standards. We will set standards that will better inform you as you make decisions.”

The baseload energy is important to the grid, and consumers pay for the investment, Pruitt said. Government interference on what type of generation to promote could lead to stranded costs that are passed on to consumers.

The agency should set goals and let industry figure out how to achieve them, Pruitt said. Some current regulations are examples of regulatory over-reach, like the Clean Power Plan, he said.

“What can we do to provide better outcome for air attainment,” Pruitt said. “The air attainment issues, as far as the NOx program, we're at 40 percent now, what should we be five years now?”

Instead of making rules, the agency should make goals and work with industry on how to achieve those goals, he said.

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House Panel Advances Science, Transparency, EPA Science Board Bills

By Rachel Leven 3/10/17

The EPA would have to publicly release more data, limit use of certain science, and alter the makeup of a board that gives the agency scientific advice under two bills a House committee advanced on March 9.

The House Science, Space and Technology Committee approved by a 17-12 margin the Honest and Open New EPA Science Treatment Act of 2017 ([H.R. 1430](#)), a bill focused on what science the agency must make public or limit use of in its decision-making.

The committee also approved the Environmental Protection Agency Science Advisory Board

Reform Act of 2017 ([H.R. 1431](#)), which aims to make the agency's Science Advisory Board a transparent and “well-balanced expert panel,” by a 19-14 vote.

House Republicans said at the mark-up that these bills are needed to restore transparency in the Environmental Protection Agency's use of science in its decisions, judgments that Republicans say have had real economic consequences.

However, House Democrats argued that the bills wouldn't improve science in EPA decisions, but would slow the regulatory process unnecessarily and dangerously exclude important science and scientists with expertise on the issues.

Path Forward

Both bills are similar to two House bills that passed the lower chamber and died in the Senate last session.

A spokesman for House Majority Leader Kevin McCarthy (R-Calif.) told Bloomberg BNA in an email that the leader's office is aware of the bills, but a vote has yet to be scheduled.

Sen. John Barrasso (R-Wyo.), the new Senate Environment and Public Works Committee chairman, also seems open to working on these issues.

“The House Science Committee is continuing to work to improve science at the EPA. EPA's science should be open and transparent and the Senate Environment and Public Works Committee will continue to work to achieve these goals,” a spokesman for the Senate committee's majority told Bloomberg BNA in an email.

Both House bills are supported by groups such as the American Chemistry Council, the U.S. Chamber of Commerce and the American Farm Bureau Federation. They are opposed by groups that include the American Lung Association, the Environmental Defense Action Fund and American Geophysical Union.

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Senate Aide Named a Top Adviser to EPA Head on Climate, Clean Air

By Dean Scott 3/10/17

A top Senate aide's recent move to majority counsel at the Environment and Public Works Committee was only a pit stop: Mandy Gunasekara now heads to the Environmental Protection Agency to advise its new administrator on air and climate issues.

The committee aide will serve as a senior policy adviser in the EPA administrator's office beginning March 20, several Senate aides confirmed to Bloomberg BNA March 9.

Gunasekara is currently majority counsel for the new Environment and Public Works chairman, Sen. John Barrasso (R-Wyo.); her last day with the committee is March 17. She will be among a handful of senior advisers reporting to Scott Pruitt, the former Oklahoma attorney general confirmed to head the EPA.

Pruitt's incoming policy adviser has worked for the environment panel since 2015, when then-Chairman James Inhofe (R-Okla.) named her to serve as the panel's Clean Air Act and Climate Change counsel. Barrasso took the mantle in January—Inhofe had to step down due to term limits Republicans impose on leadership in the Senate—and essentially brought Gunasekara with him as majority counsel.

Gunasekara is the latest former Inhofe aide to go to work for Pruitt, following Ryan Jackson, who will be Pruitt's chief of staff. Andrew Wheeler, another ex-Inhofe aide, is reportedly being considered for the No. 2 job at EPA.

To her Senate and House peers, Gunasekara will always be remembered for her connection to a bit of winter theater on the Senate floor in February 2015. Inhofe tossed a

snowball—underhanded and in the direction of Sen. Bill Cassidy (R-La.), who happened to be presiding over the Senate—to protest what he said were overly alarmist warnings of rising temperature and man-made climate change.

Though the idea was Inhofe's, the snowball featured in that stunt was brought to him by Gunasekara, who at the time had only been in her committee post for three weeks. The snowball deed was featured in a segment on “The Daily Show,” then hosted by Jon Stewart, with the video capturing Gunasekara seated just behind the senator as he cupped the snowball.

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Nonprofit Sues Over EPA-Monsanto Documents

By Tiffany Stecker 3/10/17

A nonprofit organization has launched the latest salvo in a bitter battle over the risks posed by world's most widely used herbicide.

U.S. Right to Know—an organization focused on uncovering industry ties to the science and regulation of food—is suing the Environmental Protection Agency for not releasing documents on glyphosate, better known as RoundUp, under the Freedom of Information Act (*U.S. Right to Know v. EPA* D.D.C., 1:17-cv-00423, 3/09/17).

The organization and its research director, Carey Gillam, said the EPA failed to respond to a public records request under the law in a timely manner. Gillam requested communications between the EPA and Monsanto Co., the manufacturer of RoundUp, regarding a controversial report last year that the EPA published, then quickly took offline.

The complaint was filed March 9 in the U.S. District Court for the District of Columbia.

Gillam requested documents on the EPA's Cancer Assessment Review Committee (CARC) report concluding that glyphosate is “not likely to be carcinogenic to humans,” a finding that contradicts a 2015 assessment from the World Health Organization's International Agency for Research on Cancer.

She filed the request May 12, 2016, nearly two weeks after the EPA inadvertently put the report online. On May 26, 2016, the agency told Gillam that the search for responsive records could take up to three weeks to complete. More than 200 days have passed since the EPA acknowledged receipt of the request.

The CARC report is part of the agency's periodic review of the herbicide, which began in 2009. Neither the EPA nor Monsanto immediately responded to requests for comment.

Deposition Expected

The lawsuit comes as attorneys representing dozens of plaintiffs in multidistrict litigation against Monsanto ask a judge to uncover confidential documents the company submitted to the court.

The attorneys, whose clients said their exposure to RoundUp resulted in non-Hodgkins lymphoma, also are seeking the deposition of Jess Rowland, a former EPA scientist who resigned shortly after the EPA report was released last year.

U.S. District Court for the Northern California District Judge Vince Chhabria, who heard arguments on the case Feb. 27, is likely to force Rowland's deposition and the release of information from Monsanto (*In re Roundup Prod. Liab. Litig.*, N.D. Cal., No. 3:16-md-02741, motion hearing 2/28/17).

Rachel M. Clattenburg and Adina H. Rosenbaum of the Public Citizen Litigation Group are representing U.S. Right to Know in the lawsuit.

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N.Y. Attorney General Says He Will Fight EPA on Budget Cuts

By John Herzfeld 3/10/17

New York's top legal official says he will use the power of his office to hold the EPA accountable if planned budget cuts hamper the agency's ability to carry out its responsibilities.

Attorney General Eric T. Schneiderman (D), in a March 9 letter to Office of Management and Budget Director Mick Mulvaney and Environmental Protection Agency Administrator Scott Pruitt, said that “massive cuts” laid out in reports of an OMB fiscal year 2018 budget blueprint “would cause direct, immediate, and lasting harm to New Yorkers by eviscerating core public and environmental health programs.”

The letter is an early marker of expected legal resistance by Democratic-controlled states to Trump administration environmental policies.

Schneiderman warned of “tremendous challenges” facing New York municipalities in assuring clean water, citing estimates that some \$74 billion will be needed over the next 15 years for infrastructure maintenance of the state's drinking water supplies and wastewater treatment.

The EPA for years has contributed most of the money that the state provides to municipalities through revolving funds, Schneiderman said. But the budget blueprint's reported plan for a 30 percent cut in state grants would shift “a much greater burden onto cash-strapped municipalities” and put them “at serious risk of violating standards for drinking water safety and clean water,” he said.

Great Lakes Money

He also protested reported plans for a 97 percent cut in EPA funding for the Great Lakes Restoration Initiative, which he called “one of the most widely supported, bipartisan, and successful federal environmental programs.”

The initiative, he said, has been responsible for water quality improvements that have “set the stage” for upstate New York economic development, such as an \$80 million waterfront project on the Buffalo River, “a waterbody once left for dead both ecologically and economically.”

But challenges to Great Lakes water quality continue from untreated waste discharges, algal blooms and other sources, he said.

He also faulted the budget plan for including “massive proposed cuts to climate change research.”

Schneiderman said that if the EPA “falters in meeting its legal obligations to ensure a clean, safe, and healthy environment for New Yorkers,” he won't hesitate to use “the full power” of his office to force it “to meet those obligations and to hold polluters accountable for violations” of state and federal law.

EPA: Too Early to Comment

An EPA regional spokesman, asked for a response to Schneiderman's letter, told Bloomberg BNA March 9 that the agency wouldn't comment on the budget “at this early point in the process.” In an appearance before the U.S. Conference of Mayors March 3, Pruitt sought to allay concerns about the reported plan to cut state grant programs.

Earlier, Schneiderman joined with attorneys general from the District of Columbia, Hawaii, Massachusetts, Oregon and Vermont in a statement opposing President Donald Trump's Feb. 28 executive order instructing federal agencies to begin the process of rescinding the Waters of the U.S. rule, which clarified which waters and wetlands fall under jurisdiction of the Clean Water Act.

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InsideClimate News

<https://insideclimatenews.org/news/09032017/environmental-protection-agency-scott-pruitt-donald-trump-climate-change>

What Slashing the EPA's Budget by One-Quarter Would Really Mean

By Marianne Lavelle 3/10/17

The Trump Administration's proposed slashing of the Environmental Protection Agency's budget threatens to reduce the agency's resources to levels not seen since its formative days, long before demands from Congress and the public expanded the scope of the agency's missions.

Spending reductions of nearly 25 percent and layoffs of thousands of employees have been floated. Climate change-related programs have been targeted for outright elimination. But that's also enough to cripple some of the agency's core activities, according to experienced agency veterans and outside experts.

Already, the EPA's budget has been cut 7 percent and the agency has lost about 2,000 full-time employees in about five years. The White House budget plan would slash the agency to 12,000 people—setting the agency back to staffing levels of the late Reagan administration. EPA's funding would fall \$2 billion to \$6.1 billion. When inflation is taken into account, that would be its lowest point since the Ford administration.

With cuts on that scale, EPA would have to function with resources comparable to its earliest years, shortly after its founding under Richard Nixon.

That was before the rise of the Superfund toxic dump cleanup program in 1980, the revisions to the Clean Air Act that in 1990 created economy-wide pollution permitting, the changes to the Safe Drinking Water Act that passed Congress overwhelmingly in 1986, and the growing complexity of dealing with pollution from pesticides, dioxins and other chemicals.

"I believe EPA has been run on a shoestring for a long time," said Bruce Buckheit, a former EPA lawyer who worked on pollution enforcement, a central task for the agency. "You're past the point where you have fat to cut."

'Everything We Do Is Related to Climate Change'

Trump's proposed cuts to the EPA, floated in leaked internal memos and vague announcements, appear to single out climate change programs for cancellation, making good on his campaign promise to "unleash" fossil fuel production. And because so many types of pollution are created by producing and burning fossil fuels, the assault on climate protections could also affect EPA actions that don't address climate change directly—including those that deal with pollutants like smog, soot, acid rain and mercury, or with cleanup operations, or sewage.

The climate cuts would also hit agency research studying ways global warming is affecting EPA's mission to protect the public against day-to-day pollution.

"You can't separate urban air quality and ozone levels from the impacts of weather," said Thomas Burke, an associate dean at the Johns Hopkins Bloomberg School of Public Health. "You can't build a sustainable community anymore without thinking about controlling for very extreme climate events."

He cited the case of Toledo, Ohio's drinking water crisis in 2014, when the water supply was shut down because of a toxic algae bloom in Lake Erie—an acute symptom of a chronic climate disease.

"When you examine why that algal bloom is there," he said, "you have to look at things like water temperatures are different, and storm events that are different."

Burke, who led scientific research at EPA in the final years of the Obama administration, was one of three bipartisan agency veterans to plead last week in the [New England Journal of Medicine](#) against cuts in environmental protection, including climate action.

One career EPA official who is knowledgeable about the agency's climate programs but asked not to be named, lamented how little is known about the agency's climate work and its connection to clean air and water. "A lot of people look at EPA and they think we do these big global climate models. That's not what we do," the official said. "We focus on how we at EPA are going to be able to meet our requirements for clean air and clean water—what's in the law for us to do—as the climate changes."

The 30 agency scientists who focus on climate, for instance, recently tackled issues such as how worsening wildfires affect air quality; how drinking water treatment is affected by extreme weather; and how to stop the release of toxic contaminants from waste sites during flooding.

"Everything we do [at EPA] is related to climate change, and climate change is related to everything we do," the official said. "It's another stressor, another component of risk we have to account for."

Because it's unlikely other government agencies will take up that effort, and the private sector has no incentive to do it, "that's why we're involved," the official said. "The states turn to us."

The Trump team is working from a [blueprint](#) budget developed by the Heritage Foundation, a conservative think tank that rejects the prevailing scientific consensus on climate change and the need to urgently address it, including at the EPA.

Its blueprint would end the effort to regulate greenhouse gases in vehicles, power plants or other man-made sources. It would eliminate the Greenhouse Gas Reporting Program, under which industrial facilities have been reporting their carbon emissions since 2010. It would stop "climate resilience" funding, like the grants to help coastal communities protect and enhance wetlands to protect against sea level rise and storm surge.

How deeply the White House and Congressional leaders end up cutting remains anyone's guess.

Last week EPA staff received a memo from acting administrator Donna Vizian. "We are in the first part of a long engagement between the executive and congressional branches of the federal government to establish our appropriation level for FY 2018," which begins on October 31, she said.

What will happen when funding this year under a temporary stopgap spending bill runs out at the end of April? She said she was in the dark. "The Congressional appropriations staffs are working on this, but we have not seen any recent numbers from their process," she wrote.

Reuters

<http://www.reuters.com/article/us-usa-epa-pruitt-idUSKBN16G1XX>

EPA chief unconvinced on CO2 link to global warming

By Doina Chiacu and Valerie Volcovici 3/9/17, 11:22PM

The new head of the Environmental Protection Agency said on Thursday he is not convinced that carbon dioxide from human activity is the main driver of climate change and said he wants Congress to weigh in on whether CO2 is a harmful pollutant that should be regulated.

In an interview with CNBC, EPA Administrator Scott Pruitt said the Trump administration will make an announcement on fuel efficiency standards for cars "very soon," stressing that he and President Donald Trump believe current standards were rushed through.

Pruitt, 48, is a climate change denier who sued the agency he now leads more than a dozen times as Oklahoma's attorney general. He said he was not convinced that carbon dioxide pollution from burning fossil fuels like oil, gas and coal is the main cause of climate change, a conclusion widely embraced by scientists.

"I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact," he told CNBC.

"So no, I would not agree that it's a primary contributor to the global warming that we see," Pruitt said. "But we don't know that yet, we need to continue to debate, continue the review and analysis."

Trump campaigned on a promise to roll back environmental regulations ushered in by former President Barack Obama, including those aimed at combating climate change. He framed his stand as aimed at boosting U.S. businesses, including the oil and gas drilling and coal mining industries.

"We can be pro-growth, pro-jobs and pro-environment," Pruitt said Wednesday afternoon in a Houston speech at CERAWeek, the world's largest gathering of energy executives.

Scientists immediately criticized Pruitt's statement, saying it ignores a large body of evidence collected over decades that shows fossil fuel burning as the main factor in climate change.

"We can't afford to reject this clear and compelling scientific evidence when we make public policy. Embracing ignorance is not an option," Ben Santer, climate researcher at Lawrence Livermore National Laboratory, said in a statement.

The Supreme Court unleashed a fury of regulation and litigation when it ruled in 2007 that greenhouse gases are an air pollutant that can be regulated under the Clean Air Act. Two years later, the EPA declared carbon dioxide and five other heat-trapping gases to be pollutants.

Pruitt said the Supreme Court's decision should not have been viewed as permission for the EPA to regulate carbon dioxide emissions.

"Decisions were made at the executive branch level that didn't respect the rule of law," Pruitt said in his Houston speech.

REGULATING CO2

Pruitt has previously said the EPA should not regulate CO2 without a law passed by Congress authorizing it to do so. The Republican-controlled Congress could potentially issue a strong signal to the EPA that carbon dioxide should not be regulated by the agency, a move that would undermine many Obama-era rules aimed at curbing emissions.

"Administrator Pruitt is correct, the Congress has never explicitly given the EPA the authority to regulate carbon dioxide as a pollutant and the committee has no plans to do so," said Mike Danylak, spokesman for the Senate Environment and Public Works Committee, the panel that oversees the EPA.

When asked at his confirmation hearing in January whether he would uphold the EPA endangerment finding, Pruitt said it was the "law of the land" and he was obliged to uphold it for now.

Pruitt declined to respond to a question from a reporter after his Houston speech on whether he would now seek to overturn the endangerment finding.

As Oklahoma's attorney general, Pruitt and another dozen attorney generals unsuccessfully challenged the endangerment finding in a federal appeals court.

"The mask is off. After obscuring his true views during his Senate confirmation hearings, Scott Pruitt has outed himself as a pure climate denier," said David Doniger, director of the climate program at the Natural Resources Defense Council.

The new EPA chief said he was committed to ensuring thorough processes for environmental rules and regulations to reduce "regulatory uncertainty."

Pruitt added that he shared Trump's view that the global climate accord agreed by nearly 200 countries in Paris in 2015 was a "bad deal." Trump promised during his campaign for the White House to pull the United States out of the accord, but has since been mostly quiet on the issue.

(Additional reporting by Timothy Gardner and Ernest Scheyder in Houston; Editing by Eric Walsh, Dan Grebler and Bernard Orr)

The Hill

<http://thehill.com/policy/energy-environment/323312-sanders-rips-pruitt-over-co2-comments>

Sanders rips Pruitt over climate change comments

By Nikita Vladimirov 3/9/17, 7:19PM

Sen. Bernie Sanders (I-Vt.) on Thursday blasted the head of the Environmental Protection Agency (EPA) for doubting that carbon dioxide is a “primary contributor” to climate change.

"I wish I could come up with another word — it is pathetic, that that is the position of the administrator of the Environmental Protection Agency," Sanders said in an interview with CNN.

"You have the head of the Environmental Protection Agency who denies ... reality in face of overwhelming scientific evidence — not only is it sad, it is a real threat to the wellbeing of this country and the world."

On Thursday, EPA head Scott Pruitt voiced his view that he "would not agree" that carbon dioxide is a primary contributor to global warming.

“I think that measuring with precision human activity on the climate is something very challenging to do and there’s tremendous disagreement about the degree of impact. So no, I would not agree that it’s a primary contributor to the global warming that we see,” he said.

Sanders, however, maintained that the debate over global warming is over and that carbon dioxide emissions cause "devastating problems" to the planet's climate.

"The debate is over. Something like 97 percent of the scientists who have written peer-reviewed articles on the subject agree that it is human activity and CO2 emissions that are causing devastating problems already in the United States and around the world," Sanders said.

"That you have the Trump administration continuing to deny the reality and the horrors that the climate change is already causing, is very sad indeed."

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The Washington Times

<http://www.washingtontimes.com/news/2017/mar/9/scott-pruitt-turns-epa-away-from-climate-change-ag/>

Pruitt starts steering EPA away from climate change, more toward clean water and air

By Ben Wolfgang 3/9/17

Scott Pruitt on Thursday made clear he doesn't believe carbon dioxide is the main driver of climate change — and his declaration touched off a firestorm among critics who interpret the remark as concrete proof that the EPA administrator plans to disregard the past eight years and take the agency in a new direction.

Mr. Pruitt offered the comments during a morning interview with CNBC as President Trump was preparing to sign an executive order reversing key government regulations on carbon pollution.

The EPA chief told CNBC that it's challenging to truly measure humans' effect on the climate and that there is "tremendous disagreement" about exactly how much carbon pollution contributes to climate change.

"I would not agree that [carbon] is a primary contributor to the global warming that we see," Mr. Pruitt said.

His remarks put him on the opposite side from most climate scientists, researchers and governments, and underscore a sharp break from the EPA's approach over the past eight years.

During the Obama administration, the Environmental Protection Agency was the tip of the spear in a governmentwide fight against climate change. The agency crafted rules such as the Clean Power Plan, the nation's first set of limits on carbon emissions from power plants. That rule, which remains tied up in federal court, now is on the chopping block. Mr. Trump is expected to soon direct the EPA to begin the lengthy, complex process of unwinding the plan.

President Obama saw the EPA as a necessary tool in his climate change agenda, but Mr. Trump and Mr. Pruitt believe the agency should have a more narrow purpose: protecting the nation's air and water, not trying to stem global temperature rises.

In fact, Mr. Pruitt built his political career challenging the EPA's carbon rules in federal court while he served as attorney general of Oklahoma.

“The president has made it very clear that the administration is going to refocus EPA on clean air and clean water. Administrator Pruitt is and has been right in line with that approach,” said Michael McKenna, a Republican strategist and president of the lobbying firm MWR Strategies who worked on the Trump transition team.

For environmentalists and Democrats in Congress who already fear what the administration has in store for climate policy, Mr. Pruitt’s remarks went too far.

“There are only two explanations for Mr. Pruitt’s outrageous comment: Either our nation’s chief environmental officer is unaware of basic scientific facts, or he is intent upon misleading the public,” said Sen. Thomas R. Carper of Delaware, the ranking Democrat on the Senate Environment and Public Works Committee. “Carbon dioxide is one of the most potent and abundant greenhouse gases in our atmosphere, and it is the primary greenhouse gas emitted by human activities. Those are the facts; they are not up for debate. Mr. Pruitt and I can have differences of opinion, and we certainly do, but Mr. Pruitt is not entitled to his own facts.”

Democrats quickly began fundraising off of the issue. House Minority Leader Nancy Pelosi of California used the comments to ask for money Thursday afternoon on behalf of the Democratic Congressional Campaign Committee.

“President Trump appointed a climate change denier to lead the EPA — and now we’re seeing the effects. Grassroots Democrats can’t let these horrifying claims go unnoticed. Will you fight back?” she said in the message.

Michael Brune, executive director of the environmental group the Sierra Club, said the Senate should demand that Mr. Pruitt be removed from his post.

“The arsonist is now in charge of the fire department, and he seems happy to let the climate crisis burn out of control,” Mr. Brune said in a statement. “Pruitt is endangering our families, and any sensible senator should demand he is removed from his position immediately for misleading Congress and being unfit and unwilling to do the job he has been entrusted to do.”

During his Senate confirmation hearings this year, Mr. Pruitt told lawmakers that he believes climate change is real — a statement that put him at odds with Mr. Trump, who has said global warming is a “hoax.”

Much like Energy Secretary Rick Perry and Interior Secretary Ryan Zinke, both of whom were pressed on the same question by Democratic senators, Mr. Pruitt said climate change is real and that mankind has played a role but the extent of the role is unclear.

AP

http://hosted.ap.org/dynamic/stories/U/US_EPA_BUDGET_ENVIRONMENTAL_JUSTICE?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT

EPA’s Environmental Justice Head Resigns Amid Budget Cuts

3/9/17, 5:21PM

WASHINGTON (AP) -- The head of the Environmental Protection Agency's office on environmental justice has resigned in protest over the Trump administration's proposal to slash funding for programs that help poor and minority communities.

Mustafa Ali, an associate assistant EPA administrator, helped found the environmental justice office in the 1990s and worked under Republican and Democratic presidents.

Ali told InsideClimate News, which first reported on his resignation, that he sees no indication the Trump administration is interested in helping vulnerable communities. He says his "values and priorities seem to be different than our current leadership, and because of that I feel that it's best if I take my talents elsewhere."

Ali's resignation letter urges EPA Administrator Scott Pruitt to reconsider proposals to cut EPA's budget by one-quarter and dismantle the environmental justice office.

InsideEPA

<https://insideepa.com/daily-news/senators-eye-legislation-requiring-agencies-use-best-available-science>

Senators Eye Legislation Requiring Agencies To Use ‘Best Available Science’

By Maria Hegstad 3/9/17

The Senate Homeland Security and Government Affairs Committee is weighing how to codify requirements in executive orders that EPA and other federal agencies utilize only the “best available science” in their regulatory decisionmaking, but is likely to take a different approach than EPA-specific science legislation in the House.

“Agencies should rely on the best available information and make decisions based on the weight of that information,” said Sen. James Lankford (R-OK), chairman of the committee's Regulatory Affairs and Federal Management Subcommittee in his opening remarks at a March 9 hearing.

“If past administrations' attempts to encourage agencies to base their regulatory decisions on transparent sound science have failed, Congress should consider establishing new legal requirements,” Lankford added. “I look forward to discussing steps Congress can take to implement these basic and fundamental requirements that have been endorsed by both Democrat and Republican administrations for decades.”

Lankford pointed to examples such as President Bill Clinton's 1993 Executive Order (EO) 12866, directing agencies to “base decisions on the best reasonably obtainable” information and President Barack Obama's EO 13563, directing all agencies to “ensure the objectivity of any scientific and technical information” supporting regulatory decisionmaking.

Lankford raised concerns that despite these directions, agencies have not always met such standards. He pointed to recent EPA regulatory activities, which he suggested did not meet such standards, EPA's 2015 proposal to ban the insecticide chlorpyrifos and “Clean Air Act regulations.”

“Examples like these call into question whether agencies are actually using the best available information available to them when they make regulatory decisions,” Lankford said. “Each administration has their own priorities, but the principles supporting regulatory decisions should remain constant regardless of who occupies the White House.”

In remarks with reporters afterward, Lankford said, “We're not just trying to target EPA,” adding that he is seeking language that would apply broadly to all agencies, unlike other congressional efforts.

Lankford's comments came as the House science committee March 9 approved along party lines two bills that would require EPA to publish all of the data it uses and to restructure its Science Advisory Board.

Lankford, however, reiterated at the hearing the bipartisan support for agencies' use of best available science. “There's been executive orders for many years on best available science,” he said, adding that if there's so much agreement, “Let's move it to statutory language.”

Scientists' Concerns

But one witness at the hearing raised concerns about the idea. Andrew Rosenberg, director of the Union of Concerned Scientists' Center for Science and Democracy, argued in his written testimony that “if one were to legislate what should be legally considered 'best available science,' it would prevent the innovation and flexibility that is inherent in the scientific process. This ability to learn is essential for agencies as they address new discoveries like autonomous vehicles and advancements in nanotechnology.”

Rosenberg added that “science continues to evolve. New research leads to a better understanding of complex challenges that we face today, allowing experts to make appropriate determinations, sometimes erring on the side of caution when faced with uncertainty or limited data to best protect the public.”

Sen. Maggie Hassan (D-NH), asked Rosenberg to elaborate on these concerns at the hearing. Rosenberg replied, “If you legislate best available science, that is exactly what agencies will do and not deviate, even if there is a better approach, even if there is new science . . .”

But the other two witnesses at the hearing encouraged Lankford's efforts. Nancy Beck, senior director of regulatory science policy at the chemical industry association American Chemistry Council, told Lankford that there is a definition of weight of evidence that she would like to see EPA adopt, a definition the Senate discussed last June during debate on the Lautenberg

Chemical Safety for the 21st Century Act (LCSA), which revised the Toxic Substances Control Act.

In her written testimony, Beck provided four recommendations to improve regulatory science, by clarifying scientific definitions, improving oversight and developing “quality checklists,” improving peer review practices and changing “publication incentives and standards for scientific grants funding.”

As an example, Beck points to the Lautenberg Act, which includes some language requiring EPA's use of best available science in conducting its risk evaluations of chemicals. “ACC believes that the intent of Congress in drafting the scientific standards in the LCSA is clear. It is also clear that EPA’s proposed interpretation diverges from Congressional intent in important respects,” Beck's testimony states.

Beck continues, “Clarifying that the intent of scientific standards is to improve existing Agency practices would be useful. In addition, providing clear and specific definitions for terms like best available science and [weight of evidence] would be beneficial to the consistency, reliability and credibility of EPA’s regulatory decisions. These definitions should address not only what Agencies should consider when evaluating scientific information, but also what information Agencies should present in evaluations.”

Susan Dudley, director of the George Washington University Regulatory Studies Center, also backed the committee's efforts, noting her written testimony that “[e]ffective regulatory policy that focuses resources on addressing real threats to public health and the environment depends on reliable scientific information and transparent policy choices.”

Dudley added that “clarifying which aspects of the decision are matters of science and which are matters of policy is essential to avoid both hidden policy judgments and the science charade.”

But Sen. Tom Carper (D-DE), seemed to question the necessity of such a bill in his questions to the witnesses. He noted that regardless of any change in law on scientific standards, the Administrative Procedure Act requires agencies to conduct cost-benefit analyses as part of the rulemaking process, among other restraints, and that regulated entities can sue if EPA fails to meet these requirements.

House Bills

Meanwhile, the House Science, Space and Technology Committee voted two bills, H.R. 1430 and H.R. 1431, to the House floor on party-line votes. H.R. 1430 is a reprise of Chairman Lamar Smith's (R-TX) "secret science" bill of previous sessions. The intent of the bill is to require EPA to use the "best available" reproducible science in developing rules and to make all data underlying its rules publicly available. Such a mandate would be challenging with some of the data that EPA relies on, such as epidemiological data and medical records, confidential business information, or even data with certain copyright protections.

Lankford, in the Senate hearing, mentioned several of these concerns and sought witnesses' advice on what he suggested was the challenge of addressing them. "We are seeking a way to . . . solve this legislatively. We do not want to overreact in what is done and . . . squash the future of science, or to be able to compel people not to do research or put information that should not be in the public domain there," he said.

Smith, in the House science committee's March 9 markup, touted changes to the bill that he said address concerns about the release of private and confidential information. "I really think we've addressed the concerns," he said.

H.R. 1430 now states that if passed, the EPA must only rely on information that is publicly available online "except that any personally identifiable information, trade secrets, or commercial or financial information obtained from a person and privileged or confidential, shall be redacted prior to public availability."

The new bill further states that such "redacted information . . . shall be disclosed to a person only after such person signs a written confidentiality agreement with the Administrator, subject to guidance to be developed by the Administrator." -- *Maria Hegstad* (mhegstad@iwpnews.com)

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: McGonagle, Kevin[mcgonagle.kevin@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17[Actadmmccabe.catherine17@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]
Cc: So, Katherine[so.katherine@epa.gov]
From: So, Katherine
Sent: Fri 3/10/2017 2:58:35 PM
Subject: OPA Clips 3/10/17

Below: BNA (5), InsideClimate News, Reuters (3/9), The Hill (3/9), The Washington Times (3/9), AP (3/9), InsideEPA (3/9)

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EPA Will Consider All Options as It Looks at Budget, Pruitt Says

By Nushin Huq

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The EPA is in the early stages of talking to the White House about its budget, but these discussions have been largely positive, agency administrator Scott Pruitt said.

The Environmental Protection Agency is looking at everything from downsizing regional offices to empowering states to take lead roles in regulating air and water pollution, according to Pruitt.

“What's key is that this is the beginning of the process,” he told Bloomberg BNA March 9 ahead of his speech in Houston at IHS Markit's CERAWeek, an annual energy conference. “It's something that plays out over a period of time.”

A recent proposal from the Office of Management and Budget calls for a 20 percent cut to EPA staff and slashing the agency's budget by 25 percent. Under the proposed spending plan, the EPA could reduce grants to states by 30 percent in fiscal year 2018, putting about 20 grants on the chopping block. There also have been reports that the agency will reduce the number of regional offices from 10 to eight.

The White House budget proposal is set to be released next week.

Regional EPA offices play an important role, Pruitt said, calling them an outpost that's there to help inform and formulate decisions in Washington. All that will be reviewed when the agency decides how many regional offices should remain operational.

Pruitt said he wants states to take a lead role in regulating air and water pollution and the federal government to play a partnering role. Most states have their own environmental regulator, which has expertise and resources that federal regulators don't have, he said.

There's determination, commitment and a belief across-the-board on the importance of partnering with states, Pruitt said when asked about safeguarding EPA state and tribal grants. He didn't expand on whether those grants will be reduced or by how much.

Another area of interest are more than 1,300 Superfund sites, according to Pruitt.

"We're going to come in and show true tangible environmental benefits and getting those sites cleaned up," he said. "There's also the Brownfields Program, a variation of that, local community level."

Senate Confirmations

Pruitt hopes the Senate confirmation process to fill EPA positions will begin soon, though he

didn't offer a time frame. There are many positions, not just within the agency, that require Senate confirmation, making it difficult to predict when positions such as EPA general counsel and deputy administrator will begin.

“There are many names that I think are in the hopper process,” Pruitt said. “We'll work to get our names there and process those in a good, timely way. We've tried to do all we can to get those names vetted and discussed, evaluated, but it takes a little time.”

Pruitt could fill some positions with transition people and said his focus won't be on whether those individuals are inside the agency or outside, but where they fit in the EPA's mission.

“That's going to be the focal point,” he said.

Clean Power Plan

The U.S. Supreme Court's decision to stay the Clean Power Plan, which limits carbon dioxide emissions from power plants, and its narrowing of the tailoring rule, which set greenhouse gas permitting requirements for large stationary sources of air emissions, provide strong arguments for rolling back the Clean Power Plan, Pruitt said.

An administrator just needs reasonable basis to withdraw a rule, he said.

“The Supreme Court said it's [Clean Power Plan] likely unlawful,” Pruitt said. “To issue a stay, the legal standard, the two part standard, the most important in my view, is the court's determination that a particular decision is likely. And in this instance, likely unlawful.”

The stay provides reasonable basis, and the agency's resources are better spent in other ways, he said.

Infrastructure

Pruitt has been in several meetings at the White House to discuss water infrastructure, something he is excited about, he said.

“The president has asked me to serve on a group of Cabinet officials with respect to water infrastructure,” Pruitt said. “I was in a meeting as recent as yesterday with a group of CEOs from across the country. The president acknowledges that the infrastructure package is not just road and bridges.”

Conference Speech

In the past couple of years, there's been a mind-set that you can't be pro-energy and pro-environment, Pruitt told conference attendees during a luncheon address. That simply is not true. One can be pro-growth and pro-environment, he said.

There's been a disregard for process by federal agencies for the past couple of years, according to Pruitt. Litigation has driven the regulatory agenda, he said by having lawsuits and consent agreements filed instead of rulemaking.

“The sue-and-settle practice through consent decrees has been something that the EPA and other agencies have used, I think, to the detriment of the people that we serve,” Pruitt said. “That will change under our administration.”

Other agencies, such as in health care and finance, have used guidance documents to engage in rulemaking. That abuses the process that Congress has set up, he said. “We're going to respect process,” Pruitt said.

Part of the problem is that Congress, in some instances, has not done its job, he said.

“It puts an agency in the executive branch in a difficult position because you don't have a framework. They haven't spoken,” Pruitt said. “Each of the branches needs to do its job.”

Methane

The EPA withdrew its request for information sent to oil and gas companies on methane emissions because first there needs to be a discussion around methane, how to better capture it and ensure that it's used in a productive way, Pruitt told IHS Markit Vice Chairman Dan Yergin, in a question-and-answer after his speech.

“Sometimes, regulators don't realize that methane is valuable,” Pruitt said. “It needs to be captured and used. So it's not waste per se. Now it can cause harm to the environment; it can cause harm to individuals.” He said it was premature to ask for information on methane before having a discussion about it.

Power

“Regulators shouldn't use their power to pick winners and losers,” Pruitt told Yergin. “We ought to set standards. We will set standards that will better inform you as you make decisions.”

The baseload energy is important to the grid, and consumers pay for the investment, Pruitt said. Government interference on what type of generation to promote could lead to stranded costs that are passed on to consumers.

The agency should set goals and let industry figure out how to achieve them, Pruitt said. Some current regulations are examples of regulatory over-reach, like the Clean Power Plan, he said.

“What can we do to provide better outcome for air attainment,” Pruitt said. “The air attainment issues, as far as the NOx program, we're at 40 percent now, what should we be five years now?”

Instead of making rules, the agency should make goals and work with industry on how to achieve those goals, he said.

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House Panel Advances Science, Transparency, EPA Science Board Bills

By Rachel Leven 3/10/17

The EPA would have to publicly release more data, limit use of certain science, and alter the makeup of a board that gives the agency scientific advice under two bills a House committee advanced on March 9.

The House Science, Space and Technology Committee approved by a 17-12 margin the Honest and Open New EPA Science Treatment Act of 2017 ([H.R. 1430](#)), a bill focused on what science the agency must make public or limit use of in its decision-making.

The committee also approved the Environmental Protection Agency Science Advisory Board Reform Act of 2017 ([H.R. 1431](#)), which aims to make the agency's Science Advisory Board a transparent and "well-balanced expert panel," by a 19-14 vote.

House Republicans said at the mark-up that these bills are needed to restore transparency in the Environmental Protection Agency's use of science in its decisions, judgments that Republicans say have had real economic consequences.

However, House Democrats argued that the bills wouldn't improve science in EPA decisions, but would slow the regulatory process unnecessarily and dangerously exclude important science and scientists with expertise on the issues.

Path Forward

Both bills are similar to two House bills that passed the lower chamber and died in the Senate last session.

A spokesman for House Majority Leader Kevin McCarthy (R-Calif.) told Bloomberg BNA in an email that the leader's office is aware of the bills, but a vote has yet to be scheduled.

Sen. John Barrasso (R-Wyo.), the new Senate Environment and Public Works Committee chairman, also seems open to working on these issues.

“The House Science Committee is continuing to work to improve science at the EPA. EPA's science should be open and transparent and the Senate Environment and Public Works Committee will continue to work to achieve these goals,” a spokesman for the Senate committee's majority told Bloomberg BNA in an email.

Both House bills are supported by groups such as the American Chemistry Council, the U.S. Chamber of Commerce and the American Farm Bureau Federation. They are opposed by groups that include the American Lung Association, the Environmental Defense Action Fund and American Geophysical Union.

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Senate Aide Named a Top Adviser to EPA Head on Climate, Clean Air

By Dean Scott 3/10/17

A top Senate aide's recent move to majority counsel at the Environment and Public Works Committee was only a pit stop: Mandy Gunasekara now heads to the Environmental Protection Agency to advise its new administrator on air and climate issues.

The committee aide will serve as a senior policy adviser in the EPA administrator's office beginning March 20, several Senate aides confirmed to Bloomberg BNA March 9.

Gunasekara is currently majority counsel for the new Environment and Public Works chairman, Sen. John Barrasso (R-Wyo.); her last day with the committee is March 17. She will be among a handful of senior advisers reporting to Scott Pruitt, the former Oklahoma attorney general confirmed to head the EPA.

Pruitt's incoming policy adviser has worked for the environment panel since 2015, when then-Chairman James Inhofe (R-Okla.) named her to serve as the panel's Clean Air Act and Climate Change counsel. Barrasso took the mantle in January—Inhofe had to step down due to term limits Republicans impose on leadership in the Senate—and essentially brought Gunasekara with him as majority counsel.

Gunasekara is the latest former Inhofe aide to go to work for Pruitt, following Ryan Jackson, who will be Pruitt's chief of staff. Andrew Wheeler, another ex-Inhofe aide, is reportedly being considered for the No. 2 job at EPA.

To her Senate and House peers, Gunasekara will always be remembered for her connection to a bit of winter theater on the Senate floor in February 2015. Inhofe tossed a snowball—underhanded and in the direction of Sen. Bill Cassidy (R-La.), who happened to be presiding over the Senate—to protest what he said were overly alarmist warnings of rising temperature and man-made climate change.

Though the idea was Inhofe's, the snowball featured in that stunt was brought to him by Gunasekara, who at the time had only been in her committee post for three weeks. The snowball deed was featured in a segment on “The Daily Show,” then hosted by Jon Stewart, with the video capturing Gunasekara seated just behind the senator as he cupped the snowball.

BNA

Nonprofit Sues Over EPA-Monsanto Documents

By Tiffany Stecker 3/10/17

A nonprofit organization has launched the latest salvo in a bitter battle over the risks posed by world's most widely used herbicide.

U.S. Right to Know—an organization focused on uncovering industry ties to the science and regulation of food—is suing the Environmental Protection Agency for not releasing documents on glyphosate, better known as RoundUp, under the Freedom of Information Act (*U.S. Right to Know v. EPA* D.D.C., 1:17-cv-00423, 3/09/17).

The organization and its research director, Carey Gillam, said the EPA failed to respond to a public records request under the law in a timely manner. Gillam requested communications between the EPA and Monsanto Co., the manufacturer of RoundUp, regarding a controversial report last year that the EPA published, then quickly took offline.

The complaint was filed March 9 in the U.S. District Court for the District of Columbia.

Gillam requested documents on the EPA's Cancer Assessment Review Committee (CARC) report concluding that glyphosate is “not likely to be carcinogenic to humans,” a finding that contradicts a 2015 assessment from the World Health Organization's International Agency for Research on Cancer.

She filed the request May 12, 2016, nearly two weeks after the EPA inadvertently put the report online. On May 26, 2016, the agency told Gillam that the search for responsive records could take up to three weeks to complete. More than 200 days have passed since the EPA acknowledged receipt of the request.

The CARC report is part of the agency's periodic review of the herbicide, which began in 2009.

Neither the EPA nor Monsanto immediately responded to requests for comment.

Deposition Expected

The lawsuit comes as attorneys representing dozens of plaintiffs in multidistrict litigation against Monsanto ask a judge to uncover confidential documents the company submitted to the court.

The attorneys, whose clients said their exposure to RoundUp resulted in non-Hodgkins lymphoma, also are seeking the deposition of Jess Rowland, a former EPA scientist who resigned shortly after the EPA report was released last year.

U.S. District Court for the Northern California District Judge Vince Chhabria, who heard arguments on the case Feb. 27, is likely to force Rowland's deposition and the release of information from Monsanto (*In re Roundup Prod. Liab. Litig.*, N.D. Cal., No. 3:16-md-02741, motion hearing 2/28/17).

Rachel M. Clattenburg and Adina H. Rosenbaum of the Public Citizen Litigation Group are representing U.S. Right to Know in the lawsuit.

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N.Y. Attorney General Says He Will Fight EPA on Budget Cuts

By John Herzfeld 3/10/17

New York's top legal official says he will use the power of his office to hold the EPA accountable if planned budget cuts hamper the agency's ability to carry out its responsibilities.

Attorney General Eric T. Schneiderman (D), in a March 9 letter to Office of Management and Budget Director Mick Mulvaney and Environmental Protection Agency Administrator Scott Pruitt, said that “massive cuts” laid out in reports of an OMB fiscal year 2018 budget blueprint “would cause direct, immediate, and lasting harm to New Yorkers by eviscerating core public

and environmental health programs.”

The letter is an early marker of expected legal resistance by Democratic-controlled states to Trump administration environmental policies.

Schneiderman warned of “tremendous challenges” facing New York municipalities in assuring clean water, citing estimates that some \$74 billion will be needed over the next 15 years for infrastructure maintenance of the state's drinking water supplies and wastewater treatment.

The EPA for years has contributed most of the money that the state provides to municipalities through revolving funds, Schneiderman said. But the budget blueprint's reported plan for a 30 percent cut in state grants would shift “a much greater burden onto cash-strapped municipalities” and put them “at serious risk of violating standards for drinking water safety and clean water,” he said.

Great Lakes Money

He also protested reported plans for a 97 percent cut in EPA funding for the Great Lakes Restoration Initiative, which he called “one of the most widely supported, bipartisan, and successful federal environmental programs.”

The initiative, he said, has been responsible for water quality improvements that have “set the stage” for upstate New York economic development, such as an \$80 million waterfront project on the Buffalo River, “a waterbody once left for dead both ecologically and economically.”

But challenges to Great Lakes water quality continue from untreated waste discharges, algal blooms and other sources, he said.

He also faulted the budget plan for including “massive proposed cuts to climate change research.”

Schneiderman said that if the EPA “falters in meeting its legal obligations to ensure a clean, safe, and healthy environment for New Yorkers,” he won't hesitate to use “the full power” of his office to force it “to meet those obligations and to hold polluters accountable for violations” of state and federal law.

EPA: Too Early to Comment

An EPA regional spokesman, asked for a response to Schneiderman's letter, told Bloomberg BNA March 9 that the agency wouldn't comment on the budget “at this early point in the process.” In an appearance before the U.S. Conference of Mayors March 3, Pruitt sought to allay concerns about the reported plan to cut state grant programs.

Earlier, Schneiderman joined with attorneys general from the District of Columbia, Hawaii, Massachusetts, Oregon and Vermont in a statement opposing President Donald Trump's Feb. 28 executive order instructing federal agencies to begin the process of rescinding the Waters of the U.S. rule, which clarified which waters and wetlands fall under jurisdiction of the Clean Water Act.

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InsideClimate News

<https://insideclimatenews.org/news/09032017/environmental-protection-agency-scott-pruitt-donald-trump-climate-change>

What Slashing the EPA's Budget by One-Quarter Would Really Mean

By Marianne Lavelle 3/10/17

The Trump Administration's proposed slashing of the Environmental Protection Agency's budget threatens to reduce the agency's resources to levels not seen since its formative days, long before demands from Congress and the public expanded the scope of the agency's missions.

Spending reductions of nearly 25 percent and layoffs of thousands of employees have been floated. Climate change-related programs have been targeted for outright elimination. But that's also enough to cripple some of the agency's core activities, according to experienced agency veterans and outside experts.

Already, the EPA's budget has been cut 7 percent and the agency has lost about 2,000 full-time employees in about five years. The White House budget plan would slash the agency to 12,000

people—setting the agency back to staffing levels of the late Reagan administration. EPA's funding would fall \$2 billion to \$6.1 billion. When inflation is taken into account, that would be its lowest point since the Ford administration.

With cuts on that scale, EPA would have to function with resources comparable to its earliest years, shortly after its founding under Richard Nixon.

That was before the rise of the Superfund toxic dump cleanup program in 1980, the revisions to the Clean Air Act that in 1990 created economy-wide pollution permitting, the changes to the Safe Drinking Water Act that passed Congress overwhelmingly in 1986, and the growing complexity of dealing with pollution from pesticides, dioxins and other chemicals.

"I believe EPA has been run on a shoestring for a long time," said Bruce Buckheit, a former EPA lawyer who worked on pollution enforcement, a central task for the agency. "You're past the point where you have fat to cut."

'Everything We Do Is Related to Climate Change'

Trump's proposed cuts to the EPA, floated in leaked internal memos and vague announcements, appear to single out climate change programs for cancellation, making good on his campaign promise to "unleash" fossil fuel production. And because so many types of pollution are created by producing and burning fossil fuels, the assault on climate protections could also affect EPA actions that don't address climate change directly—including those that deal with pollutants like smog, soot, acid rain and mercury, or with cleanup operations, or sewage.

The climate cuts would also hit agency research studying ways global warming is affecting EPA's mission to protect the public against day-to-day pollution.

"You can't separate urban air quality and ozone levels from the impacts of weather," said Thomas Burke, an associate dean at the Johns Hopkins Bloomberg School of Public Health. "You can't build a sustainable community anymore without thinking about controlling for very extreme climate events."

He cited the case of Toledo, Ohio's drinking water crisis in 2014, when the water supply was shut down because of a toxic algae bloom in Lake Erie—an acute symptom of a chronic climate disease.

"When you examine why that algal bloom is there," he said, "you have to look at things like water temperatures are different, and storm events that are different."

Burke, who led scientific research at EPA in the final years of the Obama administration, was one of three bipartisan agency veterans to plead last week in the New England Journal of Medicine against cuts in environmental protection, including climate action.

One career EPA official who is knowledgeable about the agency's climate programs but asked not to be named, lamented how little is known about the agency's climate work and its connection to clean air and water. "A lot of people look at EPA and they think we do these big global climate models. That's not what we do," the official said. "We focus on how we at EPA are going to be able to meet our requirements for clean air and clean water—what's in the law

for us to do—as the climate changes."

The 30 agency scientists who focus on climate, for instance, recently tackled issues such as how worsening wildfires affect air quality; how drinking water treatment is affected by extreme weather; and how to stop the release of toxic contaminants from waste sites during flooding.

"Everything we do [at EPA] is related to climate change, and climate change is related to everything we do," the official said. "It's another stressor, another component of risk we have to account for."

Because it's unlikely other government agencies will take up that effort, and the private sector has no incentive to do it, "that's why we're involved," the official said. "The states turn to us."

The Trump team is working from a [blueprint](#) budget developed by the Heritage Foundation, a conservative think tank that rejects the prevailing scientific consensus on climate change and the need to urgently address it, including at the EPA.

Its blueprint would end the effort to regulate greenhouse gases in vehicles, power plants or other man-made sources. It would eliminate the Greenhouse Gas Reporting Program, under which industrial facilities have been reporting their carbon emissions since 2010. It would stop "climate resilience" funding, like the grants to help coastal communities protect and enhance wetlands to protect against sea level rise and storm surge.

How deeply the White House and Congressional leaders end up cutting remains anyone's guess.

Last week EPA staff received a memo from acting administrator Donna Vizian. "We are in the first part of a long engagement between the executive and congressional branches of the federal government to establish our appropriation level for FY 2018," which begins on October 31, she said.

What will happen when funding this year under a temporary stopgap spending bill runs out at the end of April? She said she was in the dark. "The Congressional appropriations staffs are working on this, but we have not seen any recent numbers from their process," she wrote.

Reuters

<http://www.reuters.com/article/us-usa-epa-pruitt-idUSKBN16G1XX>

EPA chief unconvinced on CO2 link to global warming

By Doina Chiacu and Valerie Volcovici 3/9/17, 11:22PM

The new head of the Environmental Protection Agency said on Thursday he is not convinced that carbon dioxide from human activity is the main driver of climate change and said he wants Congress to weigh in on whether CO2 is a harmful pollutant that should be regulated.

In an interview with CNBC, EPA Administrator Scott Pruitt said the Trump administration will make an announcement on fuel efficiency standards for cars "very soon," stressing that he and

President Donald Trump believe current standards were rushed through.

Pruitt, 48, is a climate change denier who sued the agency he now leads more than a dozen times as Oklahoma's attorney general. He said he was not convinced that carbon dioxide pollution from burning fossil fuels like oil, gas and coal is the main cause of climate change, a conclusion widely embraced by scientists.

"I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact," he told CNBC.

"So no, I would not agree that it's a primary contributor to the global warming that we see," Pruitt said. "But we don't know that yet, we need to continue to debate, continue the review and analysis."

Trump campaigned on a promise to roll back environmental regulations ushered in by former President Barack Obama, including those aimed at combating climate change. He framed his stand as aimed at boosting U.S. businesses, including the oil and gas drilling and coal mining industries.

"We can be pro-growth, pro-jobs and pro-environment," Pruitt said Wednesday afternoon in a Houston speech at CERAWEEK, the world's largest gathering of energy executives.

Scientists immediately criticized Pruitt's statement, saying it ignores a large body of evidence collected over decades that shows fossil fuel burning as the main factor in climate change.

"We can't afford to reject this clear and compelling scientific evidence when we make public policy. Embracing ignorance is not an option," Ben Santer, climate researcher at Lawrence Livermore National Laboratory, said in a statement.

The Supreme Court unleashed a fury of regulation and litigation when it ruled in 2007 that greenhouse gases are an air pollutant that can be regulated under the Clean Air Act. Two years later, the EPA declared carbon dioxide and five other heat-trapping gases to be pollutants.

Pruitt said the Supreme Court's decision should not have been viewed as permission for the EPA to regulate carbon dioxide emissions.

"Decisions were made at the executive branch level that didn't respect the rule of law," Pruitt said in his Houston speech.

REGULATING CO2

Pruitt has previously said the EPA should not regulate CO2 without a law passed by Congress authorizing it to do so. The Republican-controlled Congress could potentially issue a strong signal to the EPA that carbon dioxide should not be regulated by the agency, a move that would undermine many Obama-era rules aimed at curbing emissions.

"Administrator Pruitt is correct, the Congress has never explicitly given the EPA the authority to regulate carbon dioxide as a pollutant and the committee has no plans to do so," said Mike Danylak, spokesman for the Senate Environment and Public Works Committee, the panel that

oversees the EPA.

When asked at his confirmation hearing in January whether he would uphold the EPA endangerment finding, Pruitt said it was the "law of the land" and he was obliged to uphold it for now.

Pruitt declined to respond to a question from a reporter after his Houston speech on whether he would now seek to overturn the endangerment finding.

As Oklahoma's attorney general, Pruitt and another dozen attorney generals unsuccessfully challenged the endangerment finding in a federal appeals court.

"The mask is off. After obscuring his true views during his Senate confirmation hearings, Scott Pruitt has outed himself as a pure climate denier," said David Doniger, director of the climate program at the Natural Resources Defense Council.

The new EPA chief said he was committed to ensuring thorough processes for environmental rules and regulations to reduce "regulatory uncertainty."

Pruitt added that he shared Trump's view that the global climate accord agreed by nearly 200 countries in Paris in 2015 was a "bad deal." Trump promised during his campaign for the White House to pull the United States out of the accord, but has since been mostly quiet on the issue.

(Additional reporting by Timothy Gardner and Ernest Scheyder in Houston; Editing by Eric Walsh, Dan Grebler and Bernard Orr)

The Hill

<http://thehill.com/policy/energy-environment/323312-sanders-rips-pruitt-over-co2-comments>

Sanders rips Pruitt over climate change comments

By Nikita Vladimirov 3/9/17, 7:19PM

Sen. Bernie Sanders (I-Vt.) on Thursday blasted the head of the Environmental Protection Agency (EPA) for doubting that carbon dioxide is a "primary contributor" to climate change.

"I wish I could come up with another word — it is pathetic, that that is the position of the administrator of the Environmental Protection Agency," Sanders said in an interview with CNN.

"You have the head of the Environmental Protection Agency who denies ... reality in face of overwhelming scientific evidence — not only is it sad, it is a real threat to the wellbeing of this country and the world."

On Thursday, EPA head Scott Pruitt voiced his view that he "would not agree" that carbon dioxide is a primary contributor to global warming.

"I think that measuring with precision human activity on the climate is something very challenging to do and there's tremendous disagreement about the degree of impact. So no, I would not agree that it's a primary contributor to the global warming that we see," he said.

Sanders, however, maintained that the debate over global warming is over and that carbon dioxide emissions cause "devastating problems" to the planet's climate.

"The debate is over. Something like 97 percent of the scientists who have written peer-reviewed articles on the subject agree that it is human activity and CO2 emissions that are causing devastating problems already in the United States and around the world," Sanders said.

"That you have the Trump administration continuing to deny the reality and the horrors that the climate change is already causing, is very sad indeed."

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The Washington Times

<http://www.washingtontimes.com/news/2017/mar/9/scott-pruitt-turns-epa-away-from-climate-change-ag/>

Pruitt starts steering EPA away from climate change, more toward clean water and air

By Ben Wolfgang 3/9/17

Scott Pruitt on Thursday made clear he doesn't believe carbon dioxide is the main driver of climate change — and his declaration touched off a firestorm among critics who interpret the remark as concrete proof that the EPA administrator plans to disregard the past eight years and take the agency in a new direction.

Mr. Pruitt offered the comments during a morning interview with CNBC as President Trump was preparing to sign an executive order reversing key government regulations on carbon pollution.

The EPA chief told CNBC that it's challenging to truly measure humans' effect on the climate and that there is "tremendous disagreement" about exactly how much carbon pollution

contributes to climate change.

“I would not agree that [carbon] is a primary contributor to the global warming that we see,” Mr. Pruitt said.

His remarks put him on the opposite side from most climate scientists, researchers and governments, and underscore a sharp break from the EPA’s approach over the past eight years.

During the Obama administration, the Environmental Protection Agency was the tip of the spear in a governmentwide fight against climate change. The agency crafted rules such as the Clean Power Plan, the nation’s first set of limits on carbon emissions from power plants. That rule, which remains tied up in federal court, now is on the chopping block. Mr. Trump is expected to soon direct the EPA to begin the lengthy, complex process of unwinding the plan.

President Obama saw the EPA as a necessary tool in his climate change agenda, but Mr. Trump and Mr. Pruitt believe the agency should have a more narrow purpose: protecting the nation’s air and water, not trying to stem global temperature rises.

In fact, Mr. Pruitt built his political career challenging the EPA’s carbon rules in federal court while he served as attorney general of Oklahoma.

“The president has made it very clear that the administration is going to refocus EPA on clean air and clean water. Administrator Pruitt is and has been right in line with that approach,” said Michael McKenna, a Republican strategist and president of the lobbying firm MWR Strategies who worked on the Trump transition team.

For environmentalists and Democrats in Congress who already fear what the administration has in store for climate policy, Mr. Pruitt’s remarks went too far.

“There are only two explanations for Mr. Pruitt’s outrageous comment: Either our nation’s chief

environmental officer is unaware of basic scientific facts, or he is intent upon misleading the public,” said Sen. Thomas R. Carper of Delaware, the ranking Democrat on the Senate Environment and Public Works Committee. “Carbon dioxide is one of the most potent and abundant greenhouse gases in our atmosphere, and it is the primary greenhouse gas emitted by human activities. Those are the facts; they are not up for debate. Mr. Pruitt and I can have differences of opinion, and we certainly do, but Mr. Pruitt is not entitled to his own facts.”

Democrats quickly began fundraising off of the issue. House Minority Leader Nancy Pelosi of California used the comments to ask for money Thursday afternoon on behalf of the Democratic Congressional Campaign Committee.

“President Trump appointed a climate change denier to lead the EPA — and now we’re seeing the effects. Grassroots Democrats can’t let these horrifying claims go unnoticed. Will you fight back?” she said in the message.

Michael Brune, executive director of the environmental group the Sierra Club, said the Senate should demand that Mr. Pruitt be removed from his post.

“The arsonist is now in charge of the fire department, and he seems happy to let the climate crisis burn out of control,” Mr. Brune said in a statement. “Pruitt is endangering our families, and any sensible senator should demand he is removed from his position immediately for misleading Congress and being unfit and unwilling to do the job he has been entrusted to do.”

During his Senate confirmation hearings this year, Mr. Pruitt told lawmakers that he believes climate change is real — a statement that put him at odds with Mr. Trump, who has said global warming is a “hoax.”

Much like Energy Secretary Rick Perry and Interior Secretary Ryan Zinke, both of whom were pressed on the same question by Democratic senators, Mr. Pruitt said climate change is real and that mankind has played a role but the extent of the role is unclear.

AP

EPA's Environmental Justice Head Resigns Amid Budget Cuts

3/9/17, 5:21PM

WASHINGTON (AP) -- The head of the Environmental Protection Agency's office on environmental justice has resigned in protest over the Trump administration's proposal to slash funding for programs that help poor and minority communities.

Mustafa Ali, an associate assistant EPA administrator, helped found the environmental justice office in the 1990s and worked under Republican and Democratic presidents.

Ali told InsideClimate News, which first reported on his resignation, that he sees no indication the Trump administration is interested in helping vulnerable communities. He says his "values and priorities seem to be different than our current leadership, and because of that I feel that it's best if I take my talents elsewhere."

Ali's resignation letter urges EPA Administrator Scott Pruitt to reconsider proposals to cut EPA's budget by one-quarter and dismantle the environmental justice office.

InsideEPA

<https://insideepa.com/daily-news/senators-eye-legislation-requiring-agencies-use-best-available-science>

Senators Eye Legislation Requiring Agencies To Use 'Best Available Science'

By Maria Hegstad 3/9/17

The Senate Homeland Security and Government Affairs Committee is weighing how to codify requirements in executive orders that EPA and other federal agencies utilize only the "best available science" in their regulatory decisionmaking, but is likely to take a different approach than EPA-specific science legislation in the House.

"Agencies should rely on the best available information and make decisions based on the weight of that information," said Sen. James Lankford (R-OK), chairman of the committee's Regulatory Affairs and Federal Management Subcommittee in his [opening remarks](#) at a March 9 hearing.

“If past administrations' attempts to encourage agencies to base their regulatory decisions on transparent sound science have failed, Congress should consider establishing new legal requirements,” Lankford added. “I look forward to discussing steps Congress can take to implement these basic and fundamental requirements that have been endorsed by both Democrat and Republican administrations for decades.”

Lankford pointed to examples such as President Bill Clinton's 1993 Executive Order (EO) 12866, directing agencies to “base decisions on the best reasonably obtainable” information and President Barack Obama's EO 13563, directing all agencies to “ensure the objectivity of any scientific and technical information” supporting regulatory decisionmaking.

Lankford raised concerns that despite these directions, agencies have not always met such standards. He pointed to recent EPA regulatory activities, which he suggested did not meet such standards, EPA's 2015 proposal to ban the insecticide chlorpyrifos and “Clean Air Act regulations.”

“Examples like these call into question whether agencies are actually using the best available information available to them when they make regulatory decisions,” Lankford said. “Each administration has their own priorities, but the principles supporting regulatory decisions should remain constant regardless of who occupies the White House.”

In remarks with reporters afterward, Lankford said, “We're not just trying to target EPA,” adding that he is seeking language that would apply broadly to all agencies, unlike other congressional efforts.

Lankford's comments came as the House science committee March 9 approved along party lines two bills that would require EPA to publish all of the data it uses and to restructure its Science Advisory Board.

Lankford, however, reiterated at the hearing the bipartisan support for agencies' use of best available science. “There's been executive orders for many years on best available science,” he said, adding that if there's so much agreement, “Let's move it to statutory language.”

Scientists' Concerns

But one witness at the hearing raised concerns about the idea. Andrew Rosenberg, director of the Union of Concerned Scientists' Center for Science and Democracy, argued in his written testimony that “if one were to legislate what should be legally considered 'best available science,' it would prevent the innovation and flexibility that is inherent in the scientific process. This ability to learn is essential for agencies as they address new discoveries like autonomous vehicles and advancements in nanotechnology.”

Rosenberg added that “science continues to evolve. New research leads to a better understanding of complex challenges that we face today, allowing experts to make appropriate determinations, sometimes erring on the side of caution when faced with uncertainty or limited data to best protect the public.”

Sen. Maggie Hassan (D-NH), asked Rosenberg to elaborate on these concerns at the hearing. Rosenberg replied, “If you legislate best available science, that is exactly what agencies will do and not deviate, even if there is a better approach, even if there is new science . . .”

But the other two witnesses at the hearing encouraged Lankford's efforts. Nancy Beck, senior director of regulatory science policy at the chemical industry association American Chemistry Council, told Lankford that there is a definition of weight of evidence that she would like to see EPA adopt, a definition the Senate discussed last June during debate on the Lautenberg Chemical Safety for the 21st Century Act (LCSA), which revised the Toxic Substances Control Act.

In her written testimony, Beck provided four recommendations to improve regulatory science, by clarifying scientific definitions, improving oversight and developing “quality checklists,” improving peer review practices and changing “publication incentives and standards for scientific grants funding.”

As an example, Beck points to the Lautenberg Act, which includes some language requiring EPA's use of best available science in conducting its risk evaluations of chemicals. “ACC believes that the intent of Congress in drafting the scientific standards in the LCSA is clear. It is

also clear that EPA's proposed interpretation diverges from Congressional intent in important respects," Beck's testimony states.

Beck continues, "Clarifying that the intent of scientific standards is to improve existing Agency practices would be useful. In addition, providing clear and specific definitions for terms like best available science and [weight of evidence] would be beneficial to the consistency, reliability and credibility of EPA's regulatory decisions. These definitions should address not only what Agencies should consider when evaluating scientific information, but also what information Agencies should present in evaluations."

Susan Dudley, director of the George Washington University Regulatory Studies Center, also backed the committee's efforts, noting her written testimony that "[e]ffective regulatory policy that focuses resources on addressing real threats to public health and the environment depends on reliable scientific information and transparent policy choices."

Dudley added that "clarifying which aspects of the decision are matters of science and which are matters of policy is essential to avoid both hidden policy judgments and the science charade."

But Sen. Tom Carper (D-DE), seemed to question the necessity of such a bill in his questions to the witnesses. He noted that regardless of any change in law on scientific standards, the Administrative Procedure Act requires agencies to conduct cost-benefit analyses as part of the rulemaking process, among other restraints, and that regulated entities can sue if EPA fails to meet these requirements.

House Bills

Meanwhile, the House Science, Space and Technology Committee voted two bills, H.R. 1430 and H.R. 1431, to the House floor on party-line votes. H.R. 1430 is a reprise of Chairman Lamar Smith's (R-TX) "secret science" bill of previous sessions. The intent of the bill is to require EPA to use the "best available" reproducible science in developing rules and to make all data underlying its rules publicly available. Such a mandate would be challenging with some of the data that EPA relies on, such as epidemiological data and medical records, confidential business information, or even data with certain copyright protections.

Lankford, in the Senate hearing, mentioned several of these concerns and sought witnesses' advice on what he suggested was the challenge of addressing them. "We are seeking a way to . . . solve this legislatively. We do not want to overreact in what is done and . . . squash the future of science, or to be able to compel people not to do research or put information that should not be in the public domain there," he said.

Smith, in the House science committee's March 9 markup, touted changes to the bill that he said address concerns about the release of private and confidential information. "I really think we've addressed the concerns," he said.

H.R. 1430 now states that if passed, the EPA must only rely on information that is publicly available online "except that any personally identifiable information, trade secrets, or commercial or financial information obtained from a person and privileged or confidential, shall be redacted prior to public availability."

The new bill further states that such "redacted information . . . shall be disclosed to a person only after such person signs a written confidentiality agreement with the Administrator, subject to guidance to be developed by the Administrator." -- *Maria Hegstad* (mhegstad@iwpnews.com)

Katherine So

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4511

so.katherine@epa.gov

To: So, Katherine[so.katherine@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17[Actadmmccabe.catherine17@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]
From: McGonagle, Kevin
Sent: Thur 3/2/2017 9:30:29 PM
Subject: RE: OPA Clips 3/2/17

Below: E&E News, Washington Examiner, InsideEPA, Morning Consult, New York Times, CBS News Chicago, American Ag Radio Network, Washington Examiner, The New Republic, Washington Post, E&E News (2), The Daily Caller, Agri-Pulse, Politico, CNN, The Hill, Bloomberg BNA (4), Reuters, Washington Post, E&E News (2), Politico (2), Breitbart, Huffington Post (3/1)

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E&E News

<http://www.eenews.net/eenewspm/2017/03/02/stories/1060050855>

Canadian minister discusses Paris deal with Pruitt

By Hannah Hess 3/2/17

Canada's top environmental official talked climate action with U.S. EPA Administrator Scott Pruitt yesterday, according to a readout from the Canadian Embassy.

Minister of Environment and Climate Change Catherine McKenna called to congratulate the former Oklahoma attorney general on becoming EPA chief.

McKenna emphasized Canada's commitment to meet its obligations under the Paris Agreement on climate change and to take advantage of the economic opportunity offered by the shift toward clean energy, the embassy said today.

McKenna and Pruitt discussed the importance of the broader Canada-U.S. relationship, including trade ties.

Canada is the United States' largest energy trading partner, according to the U.S. Energy Information Administration. Based on the latest annual data from the U.S. Census Bureau, energy accounted for about 5 percent of the value of all U.S. exports to Canada and more than 19 percent of the value of U.S. imports from Canada in 2016.

McKenna and Pruitt agreed on the importance of building on the long-standing environmental cooperation between the two allies to enhance air and water quality, particularly along the border and at the Great Lakes. The pair also agreed to meet soon.

Mention of the Paris Agreement is notable.

Under former President Obama, Canada coordinated with top U.S. climate officials. For instance, Jonathan Pershing's first international trip as the special envoy for climate change was a visit to Ottawa (E&E News PM, April 12, 2016).

Prime Minister Justin Trudeau, who has prioritized climate action in his administration, visited the White House last month. Neither he nor Trump mentioned climate during the trip, though they did talk energy infrastructure, including building the Keystone XL pipeline (E&E News PM, Feb. 14).

McKenna has stressed the need for bold action to meet Canada's climate pledge.

Canada committed to a 30 percent reduction in carbon dioxide emissions from 2005 levels by 2030 as part of the Paris Agreement, which its Legislature ratified in October.

Data show Canada will have a hard time meeting those targets due to its booming energy sector, though leaders last year announced plans to price carbon as part of a pan-Canada climate policy aimed at delivering steeper cuts in emissions (Climatewire, Oct. 3, 2016).

McKenna, an advocate for carbon pricing, expressed optimism after Trump's election that his administration would come around on collaborating with Canada on climate.

The Trump administration has been engaged in an internal debate over whether to remain within the Paris Agreement, after Trump said as a candidate that he would exit the deal.

Pruitt has deferred to the State Department on whether or not the United States will continue to participate in the international deal to curb climate change.

During his confirmation process, Pruitt said that if the United States sticks with the deal he would "work with all involved agencies to ensure that commitments made on behalf of the United States are achievable and consistent with requisite legal authorities delegated by Congress."

Washington Examiner

<http://www.washingtonexaminer.com/epa-chief-pruitt-gets-message-from-canada-on-sticking-to->

EPA chief Pruitt gets message from Canada on sticking to climate deal

By John Siciliano 3/2/17 3:49 PM

Canada is sending a message to President Trump's new chief of the Environmental Protection Agency on supporting the Paris climate change agreement.

EPA Administrator Scott Pruitt spoke with his Canadian counterpart, Environment Minister Catherine McKenna, on Thursday and for the most part discussed a number of areas where they are seeking collaborative ties on the environment, according to a readout of the call.

The only part of the call that seemed to conflict with Trump's agenda was when McKenna declared that Canada will be sticking to its commitments under the Paris climate change deal. Trump has vowed to withdraw from the deal in his first 100 days in office.

"They agreed on the importance of protecting the environment while growing the economy and creating middle-class jobs," but "Minister McKenna emphasized Canada's commitment to meet its obligations under the Paris Agreement, address climate change, and to take advantage of the economic opportunity offered by the global market shift toward clean growth," the Canadian embassy said in the readout of the call.

The Paris agreement was signed onto by nearly 200 nations in 2015 and ratified at the United Nations last year in a non-binding accord that obligates nations to take actions to cut greenhouse gas emissions. Many scientists blame carbon dioxide emissions from the burning of fossil fuels for raising the temperature of the Earth, resulting in more catastrophic weather events. The agreement seeks to stop the Earth's temperature from rising 2 degrees over the next decade.

McKenna and Pruitt agreed to meet soon for further discussions.

The phone call follows reports that Trump's advisers, including his eldest daughter, Ivanka, and her husband, Jared Kushner, are pressing Trump to rein in his criticism of the Paris climate change agreement.

Nevertheless, administration officials said Trump is planning to roll back EPA's Clean Power Plan next week in a forthcoming executive order. The EPA plan is the centerpiece of the U.S. plan to meet its obligations under the U.N.-approved climate change agreement.

InsideEPA

<https://insideepa.com/daily-news/pruitt-enlists-mayors-bolster-budget-defense-priority-epa-programs>

Pruitt Enlists Mayors To Bolster Budget Defense for Priority EPA Programs

By Abby Smith 3/2/17

EPA Administrator Scott Pruitt is asking the nation's mayors to provide him with “success stories” that would help bolster his efforts to protect his priorities -- including water infrastructure funds, Superfund cleanups, brownfields redevelopment and attainment of air quality standards -- from White House plans to slash the agency's budget.

“I want to be able to share those [success stories] with the White House. I want to be able to share that the investment in that brownfields program needs to be enhanced and strengthened because it literally goes to job creation, benefit to the community and environmental benefits, as well,” Pruitt told mayors gathered in Washington, D.C., for the U.S. Conference of Mayors winter leadership meeting March 2.

His call to the mayors to provide examples of successful EPA spending appears intended to bolster his efforts to defend programs that he plans to prioritize, given his recent complaints that his short time in office -- his first full day on the job was Feb. 21 -- and the limited time the White House Office of Management & Budget (OMB) provided agencies to respond to its proposals was already hampering his efforts.

“What's difficult having only been there a week, is to have these kinds of recommendations made and then look at our priorities and say, 'You know what, we've got to make sure that we look at these programs,’” Pruitt told E&E News earlier this week.

“What's important for us is to educate OMB on what the priorities of the agency are, from water infrastructure to Superfund, providing some of those tangible benefits to our citizens, while at the same time making sure that we reallocate, re-prioritize in our agency to do regulatory reform to get back within the bounds of Congress.”

Pruitt's remarks to the mayors came one day after reports that the Trump White House plans to propose an almost 25 percent cut to the agency's budget in fiscal year 2018, including a 20 percent cut to the agency's workforce and a 30 percent cut to grants, including popular state grants. Several of those grant programs are also proposed for elimination, including brownfields and diesel emissions grants, as well as funds for implementing the Clean Power Plan.

The cuts were detailed in a note from the National Association of Clean Air Agencies (NACAA), a group that represents state and local air regulators, to its members providing details of the “pass back” EPA received from OMB earlier this week that launched internal talks on the agency's budget.

According to the NACAA note, agencies, including EPA, had one day to appeal pass back recommendations.

Since the details of the plan emerged, Pruitt has indicated that the White House plan is still preliminary and subject to negotiation with both OMB and Congress, even as he has emphasized that he plans to protect his priorities.

But the expected EPA budget cuts have drawn significant concern from state officials, who fear it would curtail federal funds they receive to implement core programs even as Pruitt has promised to provide them with sufficient resources as they work to take on greater responsibility implementing federal requirements.

A group of state officials in a March 1 letter called for the administration to increase state and tribal assistance grants (STAG), categorical grants that states and tribes use to support day-to-day implementation of federal environmental laws.

State Grants

But an EPA official says Pruitt and other officials still have work to do to address concerns that OMB's proposed budget plan seeks to cut categorical grants that states view as essential to their continued ability to implement core federal air and water programs.

“That is the topic that we're going to have to get into and is being discussed inside the EPA right now internally, how we work on air grants,” the official told reporters after Pruitt's remarks.

The official noted that in Pruitt's address to the mayors, he had prioritized attainment of federal air and water quality standards, acknowledging that states will need EPA grants if that is to happen. Pruitt “talked about attainment, and attainment's important because obviously the grants, including water grants in some cases, are linked to whether or not places, cities, municipalities, states have achieved attainment. So the two go hand-in-hand.” Attaining air quality standards is also mandated by Congress.

In his remarks to the mayors, Pruitt reiterated his earlier comments that he planned to aggressively defend his priorities. “I want you to know that with the White House and also with Congress, I came to convey a message that the brownfields program, the Superfund program, the water infrastructure [like] the [Water Infrastructure Finance and Innovation Act] grants [and] state revolving funds are essential to protect,” he said.

And he suggested that state and local officials across the country could provide a host of “success stories” about how EPA funds have helped improve water infrastructure. “States across the country, cities and towns across the country, have relied upon those grants for a long, long time to improve water infrastructure,” he said.

Pruitt also emphasized that water infrastructure could benefit from the broader infrastructure package the Trump administration is developing, adding that he was asked by President Donald Trump to be part of an administration-wide infrastructure team.

He told the mayors he and members of the agency had prepared recommendations about how to “include water infrastructure in the discussion with roads and bridges,” and he would be

presenting them during an afternoon meeting at the White House March 2.

A group of Mississippi River mayors is also urging the Trump White House and Congress to bolster water infrastructure funds, possibly as part of an upcoming infrastructure plan.

'Pleasantly Surprised'

Pruitt's remarks were generally well-received by the mayors, who applauded his comments committing to support the Superfund and brownfields programs and to take water infrastructure recommendations to the White House.

“I think a lot of the mayors were pleasantly surprised at his commitment to brownfields and water infrastructure,” said Mayor James Brainard of Carmel, IN, on the sidelines of the meeting.

Brainard -- a Republican who has championed climate action -- told reporters that he was “pleased” to hear Pruitt say he needed mayors' help “to show examples to people to . . . 'enhance' brownfields funding.” But he also said he believes Pruitt should defend many of the climate and environmental justice programs that are slated to be cut under Trump's budget proposal.

“I was encouraged to hear that he has picked some” priorities, Brainard said of Pruitt. “He has priorities, and he's at least focused on those, and we'll certainly help him with those, and hopefully have a discussion about the others.”

Brainard suggested that beyond bringing Pruitt examples of “success stories” related to Superfund and brownfields programs, local leaders can also tout their achievements on climate and clean energy.

He said he wants to share those examples with Pruitt, noting that Carmel is an 80 percent Republican city that voted for Trump, “and yet I have four pages of environmental initiatives” and the city council passed a resolution last week setting a goal of carbon neutrality by 2050.

“I think the administration needs to see that,” Brainard said, adding later that mayors and other leaders have to “continue to persuade, use examples and look for alternative paths to get to carbon reductions other than talking about climate science.”

Morning Consult

<https://morningconsult.com/2017/03/02/pruitt-prioritize-state-environmental-programs-budget/>

Pruitt to Prioritize State Environmental Programs in Budget

By Jack Fitzpatrick 3/2/17

Environmental Protection Agency Administrator Scott Pruitt said he would emphasize the

importance of water infrastructure and environmental clean-up grant and loan programs as the White House prepares a slimmed-down budget for the agency.

His comments appear to confirm reports that the Trump administration would seek to cut more funds from EPA programs administered at the federal level, including climate programs, while continuing to support grant and loan programs administered by state and tribal governments.

Pruitt also said he would meet with White House officials Thursday afternoon to talk about environmental projects that could go in an eventual infrastructure bill, saying he would promote funding for water infrastructure.

“I want you to know that with the White House and also with Congress, I am communicating a message that the Brownfields program, the Superfund program, water infrastructure, WIFIA [Water Infrastructure Finance and Innovation Act] grants, [and] state revolving funds are essential to protect,” Pruitt said at a press conference at the U.S. Conference of Mayors Thursday morning.

The agency’s Superfund program uses a trust fund to support major hazardous waste clean-up projects, while the other programs Pruitt mentioned send grants to state governments. The Brownfields program offers grants to improve properties that are underutilized because of real or perceived contamination. The WIFIA program and state revolving funds provide loans for water infrastructure.

Pruitt said the budget discussion is “just starting” and that he knew there were “some concerns about these grant programs that EPA has been a part of historically.”

E&E News reported Monday that the White House is pushing for a 24 percent cut to the EPA’s budget.

Myron Ebell, who led the EPA’s transition team, said Monday that 24 percent “sounds a little steep.” But regardless of the size of the budget cuts, President Donald Trump wants to preserve “pass-through” grants to states, which make up nearly half the agency’s budget, Ebell said in an interview. Preserving state programs while cutting nearly a quarter of the overall budget would equate to slashing nearly half of the money for the EPA’s own activities.

To accomplish such drastic cuts, EPA would have to “cut some regional offices,” cut “all grants to environmental groups for environmental education and other purposes,” and “pretty much zero out the climate programs, which Trump is in favor of anyway,” Ebell said.

New York Times

https://www.nytimes.com/2017/03/02/us/politics/climate-change-trump.html?_r=0

Top Trump Advisers Are Split on Paris Agreement on Climate Change

By Coral Davenport 3/2/17

WASHINGTON — The White House is fiercely divided over President Trump's campaign promise to "cancel" the Paris agreement, the 2015 accord that binds nearly every country to curb global warming, with more moderate voices maintaining that he should stick with the agreement despite his campaign pledge.

Stephen K. Bannon, Mr. Trump's senior adviser, is pressing the president to officially pull the United States from the landmark accord, but he is clashing with Secretary of State Rex Tillerson and the president's daughter Ivanka Trump, who fear the move could have broad and damaging diplomatic ramifications.

Mr. Trump vowed on the campaign trail to tear up President Barack Obama's global warming policies, and on the home front he is moving aggressively to meet those pledges with deep cuts to the Environmental Protection Agency and a new E.P.A. administrator, Scott Pruitt, who is a skeptic of climate science.

Next week, Mr. Trump plans to sign an executive order directing Mr. Pruitt to start the lengthy legal process of unwinding Mr. Obama's E.P.A. regulations for cutting greenhouse pollution from coal-fired power plants. Those regulations are the linchpin of the last administration's program to meet the nation's obligations to reduce climate emissions under the Paris agreement.

While the president cannot, as Mr. Trump suggested, unilaterally undo a 194-nation accord that has already been legally ratified, he could initiate the four-year process to withdraw the world's largest economy and second-largest climate polluter from the first worldwide deal to tackle global warming. Such a move would rend a global deal that has been hailed as historic, throwing into question the fate of global climate policy and, diplomats say, the credibility of the United States.

But it would also demonstrate to his supporters that Mr. Trump is a man of his word, putting American coal interests ahead of a global deal forged by Mr. Obama.

On one side of that debate is Mr. Bannon, who as a former chief executive of Breitbart News published countless articles denouncing climate change as a hoax, and who has vowed to push Mr. Trump to transform all his major campaign promises into policy actions.

On the other side are Ms. Trump, Mr. Tillerson, and a slew of foreign policy advisers and career diplomats who argue that the fallout of withdrawing from the accord could be severe, undercutting the United States' credibility on other foreign policy issues and damaging relations with key allies.

Although Ms. Trump has not spoken out publicly for action to combat climate change, proponents and opponents of such action see her as an ally. Former Vice President Al Gore met with her during the Trump transition, and was ushered in by the "first daughter" to see the president-elect. The actor and activist Leonardo DiCaprio even slipped her a DVD copy of his

climate-change documentary.

“President Trump Must Not Wobble on Climate Change — No Matter What Ivanka Says ...,” blared a Breitbart post on Monday written by James Delingpole, who is close to Mr. Bannon and who leads the website’s coverage of climate-change policy.

Mr. Trump wants to make a decision by next week, say people familiar with the White House’s debate on the climate pact, in order to announce his executive order to undo Mr. Obama’s climate regulations in conjunction with his plans for the Paris deal.

According to leaked budget documents, the president will also propose killing off nearly two dozen E.P.A. programs, including the Obama-era Clean Power Program, climate partnership programs with local governments, Energy Star grants to encourage efficiency research in consumer products and climate-change research. Those would be part of a broader budget submission that would cut the E.P.A.’s funding by 25 percent, to around \$6.1 billion from \$8.2 billion, and its staff by 20 percent.

“If the goal is to fulfill the president’s campaign promises and implement his agenda, there is no value in staying in Paris,” said Thomas J. Pyle, an adviser to the Trump transition and the president of the Institute for Energy Research, an organization partly funded by the billionaire brothers Charles G. and David H. Koch, who have worked for years to undermine climate-change policies.

Mr. Trump has cited Mr. Pyle’s group as being influential in shaping his energy and climate proposals, including his campaign pledge to withdraw from the Paris deal.

“The two greatest obstacles to a Clexit (climate exit from U.N. Paris agreement) are probably Ivanka and Tillerson,” wrote Marc Morano, a former Republican Senate staff member who now runs Climate Depot, a fossil-fuel-industry-funded website that promotes the denial of climate science, in an email. “Tillerson with his ‘seat at the table’ views could be biggest proponent of not withdrawing the U.S. from the agreement.”

Mr. Tillerson is a former chief executive of Exxon Mobil, which, like many major global corporations, endorsed the Paris agreement. While his former company once denied human-caused climate change, it has more recently publicly acknowledged the threat posed by burning oil and supported proposals to tax carbon dioxide pollution.

Asked during his Senate confirmation hearing about the Paris accord, Mr. Tillerson said, “It’s important that the U.S. maintains its seat at the table about how to address the threat of climate change, which does require a global response.”

Under the Paris agreement, every nation has formally submitted plans detailing how it expects to lower its planet-warming pollution. The Obama administration pledged that the United States would reduce its carbon pollution about 26 percent from 2005 levels by 2025. However, that pledge depends on enactment of Mr. Obama’s E.P.A. regulations on coal-fired power plants, which Mr. Trump and Mr. Pruitt intend to substantially weaken or eliminate.

But under the Paris deal, those numerical targets are not legally binding, and there are no sanctions for failing to meet them. The only legal requirements of the deal are that countries publicly put forth their emissions reductions targets, and later put forth reports verifying how they are meeting the targets. It would be possible for the Trump administration to stay in the deal and submit a less ambitious target.

Even senior Republican voices in the foreign policy debate have said it may be wiser to stay in but keep a low profile.

“There’s really no obligation,” Senator Bob Corker, Republican of Tennessee and chairman of the Foreign Relations Committee, said in an interview. “It doesn’t require us to do anything. I think they may take a little time to assess whether pulling out makes sense now.”

Foreign policy experts say withdrawing from Paris would have far greater diplomatic consequences than President George W. Bush’s withdrawal from the world’s first global climate-change accord, the 1997 Kyoto Protocol.

“I think it would be a major mistake, even a historic mistake, to disavow the Paris deal,” said R. Nicholas Burns, a retired career diplomat and under secretary of state under Mr. Bush.

“In international politics, trust, reliability and keeping your commitments — that’s a big part of how other countries view our country,” Mr. Burns said. “I can’t think of an issue, except perhaps NATO, where if the U.S. simply walks away, it would have such a major negative impact on how we are seen.”

The Paris deal is more consequential than Kyoto. Unlike that pact, which required action only from developed economies, the Paris agreement includes commitments from every nation, rich and poor, to cut emissions, including China and India, the world’s largest and third-largest polluters. Also, the science of climate change has become far more certain and the impact more visible in the 20 years since Kyoto. Each of the last three years has surpassed the previous one as the hottest on record.

Some of the United States’ closest allies are urging the Trump administration not to pull out. In a letter to Mr. Trump after he won the election, Chancellor Angela Merkel of Germany wrote, “Partnership with the United States is and will remain a keystone of German foreign policy, especially so that we can tackle the great challenges of our time.” They include, she wrote, “working to develop farsighted climate policy.”

As Mr. Trump and his advisers weigh their Paris options, one proposal is gaining traction, according to participants in the debate: Mr. Trump could declare that the Paris agreement is a treaty that requires ratification by the Senate. The pact was designed not to have the legal force of a treaty specifically so that it would not have to go before the United States Senate, which would have assuredly failed to ratify it.

“If there are camps forming in the White House, then let the people decide, the elected

representatives,” Mr. Pyle said. “Let’s put the question to them.”

Proponents of that idea say it could shift some of the weight of the decision from Mr. Trump to Senator Mitch McConnell of Kentucky, the majority leader, at least in the eyes of some foreign diplomats, and of the president’s daughter.

CBS News Chicago

<http://chicago.cbslocal.com/2017/03/02/epa-employees-protest-trump-administrations-proposed-budget-cuts/>

EPA Employees Protest Trump Administration’s Proposed Budget Cuts

3/2/17 2:22 PM

CHICAGO (CBS) — A few dozen Chicago-based employees of the Environmental Protection Agency demonstrated Thursday afternoon at Federal Plaza, upset over proposed budget cuts by the Trump administration.

President Trump was the target of the EPA employee protest. WBBM’s Steve Miller reports.

EPA Attorney Nicole Cantello, who’s also a union leader, said the administration’s proposed budget would prevent EPA from responding properly to a scenario like East Chicago – where a cleanup is going on after high lead levels were found.

“EPA – this region – responded with 30 to 60 people that worked full-time on that site for a certain amount of time. If you take a 25 percent cut of the people in this region, we won’t be able to respond like that.”

Supporting the EPA workers: some Chicago Alderman, like Raymond Lopez of the 15th Ward on the South Side – who worked President Trump into his remarks.

“We’re not going backwards. He can go back.”

Rally organizers urged EPA employees to write their representatives and oppose any budget cuts.

American Ag Radio Network

<http://americanagnetwork.com/2017/03/epa-proposed-revocation-of-chlorpyrifos-threatens-growers-livelihoods/>

EPA Proposed Revocation of Chlorpyrifos Threatens Growers’ Livelihoods

By Rusty Halvorson 3/1/17

In the months since the U.S. Environmental Protection Agency announced a proposal to revoke U.S. food tolerances for chlorpyrifos, growers, university Extension specialists and scientists have united to voice overwhelming support of the widely used insecticide. Since first registered in the United States in 1965, chlorpyrifos has played an important role in pest management efforts worldwide.

With the official EPA comment period concluding Jan. 17, 2017, and a final EPA decision forthcoming very soon, the future of chlorpyrifos – chemistry that is registered in nearly 100 countries for use on more than 50 different crops – hangs in the balance.

“For more than half a century, growers around the globe have relied on chlorpyrifos because of its outstanding control and low cost, and its role as an important tool in Integrated Pest Management programs,” says Phil Jost, portfolio marketing leader, U.S. crop protection insecticides for Dow AgroSciences. “Without chlorpyrifos to control many yield- and profit-robbing pests, growers face limited or, in some cases, no viable alternatives.”

Dow AgroSciences is concerned about the far-reaching impact of EPA’s proposal to revoke U.S. food tolerances for the insecticide. The company is specifically concerned that EPA’s assessment of the chemistry lacks scientific rigor and that establishing food tolerance levels based on a nonreplicable epidemiology study sets an untenable precedent for current and future registrations.

EPA’s own Scientific Advisory Panel, along with the U.S. Department of Agriculture and other experts, have voiced concern that EPA has attempted to regulate chlorpyrifos based on a single unreplicated and unvalidated epidemiology study. In contrast, however, an extensive database of reliable and well-replicated data — developed based on sound scientific standards for chlorpyrifos — demonstrates that authorized uses of chlorpyrifos provide wide margins of protection for human health and safety when used as directed.

For growers like **Allen Tucker, a sugarbeet producer from St. Thomas, North Dakota**, chlorpyrifos is critical to protecting his crops from devastating pests and his operation’s sustainability. Tucker farms more than 4,000 acres – 700 dedicated to sugarbeets – and chairs the Sugarbeet Research and Education Board of Minnesota and North Dakota, an expert source of information on the sugarbeet industry.

“There are a limited number of products that can control sugarbeet root maggot effectively,” Tucker says. “With chlorpyrifos as a tool, we can apply it as a rescue treatment, if necessary, later in the growing season. Chlorpyrifos is our last line of defense against sugarbeet root maggot outbreaks. My farming operation would suffer greatly if this invaluable tool were to be taken off the market.”

John Weinand, a diversified grower from west-central North Dakota, echoes Tucker’s sentiment.

Weinand grows dry pea, winter and durum wheat, corn, sunflowers, barley and canola, and relies heavily on chlorpyrifos. He is also a member of the National Association of Wheat Growers' Environmental and Renewable Resources Committee.

"We rely heavily on chlorpyrifos to control orange blossom wheat midge," Weinand says. "We turn to the expertise of our land grant university researchers for many agronomic practices and chlorpyrifos is their recommended 'treatment of choice' for midge. After using it, we nearly doubled our yield where there was a treatable infestation."

"Anytime you take tools out of the toolbox and throw them away, it's a loss for our operation," Weinand says. "The recommendation we get from our university is based on solid science. It's not random, and we feel EPA needs to understand that."

Tucker says that without chlorpyrifos as an effective pest control tool, he would be forced to use other, less effective insecticides far more aggressively to keep sugarbeet root maggot pest outbreaks at bay.

"We would have to apply other insecticides before knowing the severity of an outbreak," Tucker says. "The net result would likely be an increased application of insecticide active ingredients at a greater cost. From an environmental standpoint, it benefits no one if we have to apply extra active ingredients of alternative insecticides to overcome insect pressure."

"We remain optimistic that once EPA considers all of the scientific evidence and grower concerns, this product will continue to be available," says Jost. "The decision carries huge implications, not only for food production and grower livelihoods, but just as importantly, for environmental sustainability, efforts to manage insect resistance and grower IPM programs."

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-looks-to-save-key-epa-grant-programs/article/2616268>

Pruitt looks to save key EPA grant programs

By John Siciliano 3/2/17 1:18 PM

Environment Protection Agency chief Scott Pruitt said Thursday he is trying to save the agency's grant programs from being slashed as the EPA braces for major cuts under President Trump's budget proposal.

Pruitt discussed his budget priorities for the agency at an annual conference of mayors Thursday in Washington. State and local governments rely on many of the grant programs he supports to improve water infrastructure and fund cleanups of waste that can lead to economic revitalization.

"I want you to know that with the White House and also with Congress, I am communicating a

message that the brownfields program, the Superfund program, water infrastructure ... are essential to protect," Pruitt said. He added that the budget discussions are "just starting" in Congress, but there are already "some concerns about some of these grant programs that EPA has been a part of, historically," Pruitt said.

Pruitt's reassuring comments to local leaders come as the Trump administration is reportedly looking to slash EPA's budget by at least 25 percent. The main target of the Trump administration's cuts appears to be its climate change programs, but it is not clear how far the budget cuts would go.

Myron Ebell, the former head of Trump's EPA transition team, told the Washington Examiner in recent weeks that the grant programs likely would be spared in the budget because of how they will factor into Trump's infrastructure plan.

Trump "promised to undo all of Obama's climate agenda, including the greenhouse gas emissions rules for power plants; the [Waters of the U.S. rule]; and other job-killing rules," Ebell said in an email. "On the other hand, he supports the pass-through grants to the states for water and other environmental infrastructure projects."

The grants make up about half of the EPA's \$8 billion budget, Ebell said. "So I expect this funding to survive or even increase as significant budget cuts are made at the federal level."

Pruitt said Thursday that he supports EPA's many clean-up programs such as the Superfund and the brownfields, which are geared to revitalizing abandoned industrial sites.

"I want to be able to share that the investment with the brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits to the community and environmental benefits, as well," Pruitt told the mayors.

Trump is reportedly planning to cut EPA's \$8 billion budget by \$2 billion, which has EPA employees bracing for layoffs. Trump is expected to issue an executive order next week to scuttle EPA's Clean Power Plan, the centerpiece of former President Barack Obama's climate change agenda.

Trump is also expected to issue a separate order ending Obama's moratorium on coal leases at the Interior Department, now that Interior Secretary Ryan Zinke has been confirmed.

The New Republic

<https://newrepublic.com/minutes/141066/scott-pruitt-like-relax-epa-cuts>

Scott Pruitt would like you to relax about the EPA cuts.

By Emily Atkin 3/2/17

In the wake of news that President Donald Trump's budget slashes the Environmental Protection Agency by 25 percent, the department's new administrator called for calm and insisted he's not totally on board with the administration's plan. "Civility in our discourse is really, really important," Pruitt, who is wrongly skeptical of man-made climate change and frequently sued the EPA as Oklahoma's attorney general, said at a U.S. Conference of Mayors event in D.C. on Thursday. He implored those around him to "lean on these issues with some level of civility."

Pruitt said he opposes some of Trump's ideas for his agency—specifically Trump's idea to cut a number of popular grant programs for states. Pruitt said he'd like to preserve Brownfields grants, which help states clean up and reuse highly polluted industrial sites. He also cited federal grant programs that rebuild aging drinking water infrastructure, like the \$100 million EPA grant that Flint, Michigan, received last year to improve its corroded pipes. "I want you to know that with the White House and also with Congress, I am communicating a message that the Brownfields Program, the Superfund program, water infrastructure ... are essential to protect," Pruitt said.

Afterward, an EPA spokesperson declined to say if Pruitt opposed any other parts of Trump's reported slash-and-burn budget for the EPA, such as eliminating the Office of Environmental Justice, reducing the workforce from 15,000 to about 12,000, and zeroing out funds for climate change initiatives and native Alaskan villages.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/02/heres-one-part-of-epa-that-the-agencys-new-leader-wants-to-protect/?utm_term=.f38c792a65b8

Here's one part of the EPA that the agency's new leader wants to protect

By Brady Dennis 3/2/17 12:37 PM

In case there was any question whether President Trump's administration has put a bull's eye on the Environmental Protection Agency, the White House's proposed budget cuts at the agency leave little doubt. Plans reviewed by The Washington Post this week outline a wish list for cutting the agency's staff by one-fifth and eliminating dozens of programs entirely.

But Thursday morning, new EPA Administrator Scott Pruitt — himself a longtime agency critic who has made clear he intends to scale back the EPA's reach — told a group of mayors from around the country that he intends to defend at least some pieces of the EPA.

"Superfund is an area that is absolutely essential," Pruitt told a gathering of the U.S. Conference of Mayors at the Capital Hilton. "The brownfields program, as well."

EPA's Superfund program, which has been around since 1980, is responsible for managing the cleanup of some of the country's most contaminated hazardous waste sites, as well as responding

to significant environmental emergencies. There are more than 1,300 Superfund sites around the country, and most past cleanups have been paid for by the parties responsible for polluting. The brownfields program, which began in 1995, involves EPA grants for communities to help clean up and redevelop abandoned industrial sites.

The programs historically have been considered successes and are popular around the country among lawmakers and their constituents. The White House budget proposal this week, however, would shrink EPA grants to states by 30 percent and potentially cut the brownfields funding altogether.

“There’s a brownfields in every congressional district,” Chris Bollwage, the mayor of Elizabeth, N.J., told Pruitt on Thursday. “It’s a program that’s worked really well in my city and throughout the nation.”

“It’s a tremendous success,” Pruitt agreed, urging the mayors to send him details of where the program has worked best. “I want to hear from you about those successes. I want to be able to share those with the White House. ... We need stories. We need illustrations about how important the brownfields program is to creating jobs and the environmental benefits that have been achieved.”

Pruitt also said Thursday that he intends to advocate for water infrastructure funding as part of a broader infrastructure push by the Trump administration.

“We know when it goes wrong, it goes wrong badly,” Pruitt said, in an apparent reference to the Flint, Mich., water crisis. “We have a water infrastructure issue right now across this country. It’s not just roads and bridges.”

He said he planned to bring up the need for water infrastructure investment at a White House meeting Thursday afternoon.

Pruitt did not address the wave of other deep cuts proposed at the agency.

The White House’s initial proposal would reduce the agency’s staff by one-fifth in the first year — from 15,000 to 12,000 — and would slash the EPA’s budget from \$8.2 billion a year to \$6.1 billion. Grants to states, as well as the agency’s air and water programs, would be cut by nearly a third. The massive Chesapeake Bay cleanup project would receive only \$5 million in the next fiscal year, down from its current \$73 million. The agency’s Office of Research and Development could lose up to 42 percent of its budget. EPA’s environmental justice program could vanish. In total, 38 separate programs would be eliminated entirely.

Congress, of course, would have to approve any cuts, some of which are deeply unpopular among some lawmakers.

But there is little doubt about Trump’s disdain for much of the agency’s work. As a candidate, he vowed to eliminate the EPA “in almost every form,” leaving only “little tidbits” intact. As Oklahoma attorney general since 2010, Pruitt also has been a key EPA adversary, suing the

agency more than a dozen times to challenge its legal authority to regulate such things as mercury pollution, smog and carbon emissions from power plants.

E&E News

<http://www.eenews.net/greenwire/2017/03/02/stories/1060050847>

Green success stories critical to budget battle — Pruitt

By Kevin Bogardus and Emily Holden 3/2/17

U.S. EPA Administrator Scott Pruitt pleaded with mayors this morning to share their environmental success stories with his agency.

The newly minted agency chief spoke to the U.S. Conference of Mayors in Washington, stressing that he wants to protect certain EPA programs from budget cuts proposed by President Trump. The White House blueprint would cut EPA's budget by nearly a quarter, or roughly \$2 billion, and lay off 3,000 employees, which would leave several agency initiatives in limbo.

In his talk with mayors, Pruitt cautioned that the budget process was just starting.

"There are some concerns about some of these grant programs that EPA has been a part of historically," Pruitt said. "I want you to know that with the White House and also with Congress, I'm communicating the message that the brownfields program, the Superfund program, water infrastructure ... state revolving funds are essential to protect."

The EPA administrator said mayors have success stories with those cleanup programs such as brownfields and Superfund. They should share those stories with his agency as budget talks commence.

"There are tremendous successes all over the country," Pruitt said. "I want to hear from you about those successes. I want to be able to share those with the White House."

Pruitt said those programs lead to job creation as well as benefits to the community and the environment.

The EPA chief also noted that he has been invited to be part of the president's team on infrastructure and will be heading to the White House this afternoon to discuss the issue.

"We have a water infrastructure issue right now for us in this country," Pruitt said. "I want to hear from you on your needs with respect to water infrastructure."

In his early days as agency head, Pruitt has talked up the importance of clean water and cleanup programs. Today, he also discussed working with mayors to take down air pollution, noting there

are still several nonattainment areas in the country that do not meet national air quality standards.

"I look forward to partnering with you in the future," Pruitt said.

State agencies stand ready to work with Pruitt at EPA.

"Our members realize this is the beginning of the conversation for FY2018 budget, and will look to engage with U.S. EPA, Congress and the White House to highlight recent success stories and the need for cooperative approaches to core Clean Air Act responsibilities," said Clint Woods, executive director of the Association of Air Pollution Control Agencies, in a statement to E&E News.

Nevertheless, Trump's budget cuts proposed for EPA have been meeting pushback on Capitol Hill as well as from agency employees.

Sen. Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee, said earlier this week that the proposed budget cuts "will put people across this country at risk for illnesses or even premature death." In addition, EPA Region 5 employees, based in Chicago, were slated to protest this afternoon against the president's budget plan.

Some feel, however, that the Trump administration could change course, given the budget process has only just begun.

Jim Brainard, the Republican mayor of Carmel, Ind., and an outspoken supporter of fighting climate change, said he's "cautiously optimistic" that the president's views on climate change and environmental protection could change.

"Like so many things, the president started out, he hadn't been in government, he hadn't studied a lot of the issues," Brainard said. "We've seen him do 180s on several issues at this point."

He said he's hopeful because the president's daughter Ivanka and son-in-law, Jared Kushner, seem to support the environment. Brainard was also pleased that Pruitt asked for examples of the successful use of EPA funds to clean up brownfields.

"I haven't met a Republican or Democrat yet that wants to drink dirty water or breathe dirty air," Brainard said.

"I think we start to take into the equation the health cost of dirty air, the ozone issue that the administrator mentioned, there may be an opportunity to change minds at the White House."

Brainard said he thinks the administration is wrongfully looking to slash agency funds in order to reduce taxes and boost defense spending.

"I think they're looking to support this proposal, which may not have been well thought out, to cut taxes. They've got to look at every function of government and then combine that with the increase they want to give to the U.S. military," Brainard said. "I'm not sure the math works even

in the best of cases."

E&E News

<http://www.eenews.net/greenwire/2017/03/02/stories/1060050820>

Wetlands scientists defend WOTUS with letter, brief

By Ariel Wittenberg 3/2/17

Seven scientific societies are speaking out against President Trump's executive order targeting the contentious Clean Water Rule.

Representing more than 200,000 members total, the Society of Wetland Scientists, Ecological Society of America, American Institute of Biological Scientists, American Fisheries Society, Society for Ecological Restoration, Society for Freshwater Science and Phycological Society of America wrote a letter arguing in favor of the regulation.

"As non-profit organizations, we support and foster sound science, education, restoration and management of wetlands and other aquatic resources," the letter says, adding that the regulation was written "using the best available science."

Finalized by the Obama administration in May 2015, the Clean Water Rule, also known as the Waters of the U.S. rule, or WOTUS, caught the ire of farmers, land developers and energy companies.

The law was stayed in a federal court following multiple legal challenges, including one brought by now-U.S. EPA Administrator Scott Pruitt when he was Oklahoma attorney general.

On Tuesday, President Trump signed an executive order directing EPA and the Army Corps of Engineers to review and possibly rescind or replace the regulation (E&E News PM, Feb. 28).

The letter from the societies accompanies an amicus brief they filed in the 6th U.S. Circuit Court of Appeals to support a brief filed by the Obama administration defending the regulation earlier this year. That case has been stayed pending a Supreme Court review of whether it has jurisdiction over the regulation (Greenwire, Jan. 13).

In their letter, the organizations describe the ecological importance of wetlands, which can remove otherwise harmful nutrient pollution from water, as well as the benefits wetlands provide to humans.

"They store water, and thus are a source of water during times of drought," the letter says. "Many wetlands soak up runoff and floodwaters, which reduces peak flood-flows and avoids costly flood damage."

The Daily Caller

<http://dailycaller.com/2017/03/02/trump-orders-epa-to-zero-out-global-warming-programs/>

Trump Orders EPA To ‘Zero Out’ Global Warming Programs

By Michael Bastasch 3/2/17 10:08 AM

The White House is pushing for significant cuts to EPA programs and staff levels, giving a glimpse of how the Trump administration plans on devolving more control to the states.

The budget plan sent from the Office of Management and Budget (OMB) to EPA leadership calls for eliminating dozens of programs, including at least 16 that have to do with global warming and implementing former President Barack Obama’s climate agenda.

OMB also requested a 30 percent cut in grants to states and a 20 percent reduction in EPA’s workforce through buy-outs and layoffs. In total, President Donald Trump is calling for a roughly 25 percent cut to EPA’s budget — about \$2 billion.

The cuts are laid out in a letter sent by William Becker, the executive director of the National Association of Clean Air Agencies (NACAA), to his group’s member state and local regulators. Becker said NACAA received the “pass back” budget information sent from OMB to EPA Monday, according to InsideEPA.

Here are all the programs NACAA said OMB wants “zeroed out”:

Alaska Native Villages Beach and Fish programs Brownfield projects

Clean Power Plan implementation

Climate Voluntary partnership programs < there are 14 separate ones

Diesel Emissions Reduction Act Endocrine grants Energy star grants

Environmental education Environmental justice

Geographical programs for lake [Champlain], L.I. Sound, S.F. Bay and South Florida

Global Change Research Mexico Border grants Multi-purpose grants

Office of Public Engagement Radon Star Research grants

Small minority businesses State indoor radon Targeted air shed grants

U.S. Mexico Border Water Sense

Democrats and environmentalists have opposed Trump's budget cuts, and EPA union leaders are hemming and hawing about cutting staffing levels. Even some Republicans aren't on board with cutting so much from EPA's budget.

"They are operating at 1989 staffing levels. So you really want to be sure you are not cutting the meat and muscle with the fat," Oklahoma Republican Rep. Tom Cole, who is on the House Committee on Appropriations, told Inside EPA.

"There's not that much in the EPA, for crying out loud," California Republican Rep. Mike Thompson told The Washington Post. Thompson formerly chaired the appropriations committee's subcommittee dealing with EPA.

What's unsurprising is Trump wants to get rid of more than a dozen global warming programs at EPA, including funding to implement the Clean Power Plan (CPP)

Trump promised to repeal Obama's "Climate Action Plan" — the CPP is the linchpin of the former president's climate agenda. The CPP limits carbon dioxide emissions from new and existing power plants.

EPA Administrator Scott Pruitt helped lead a coalition of 28 states to overturn the rule while he was attorney general of Oklahoma. Trump is preparing to sign an executive order to rescind the CPP, so it's not surprising they'd cut funding for its implementation.

WaPo reported EPA's "Office of Research and Development could lose up to 42 percent of its budget, according to an individual apprised of the administration's plans."

The budget plan "eliminates funding altogether for the office's 'contribution to the U.S. Global Change Research Program,'" according to WaPo.

One area of concern, however, is the reduction in state and tribal grants for infrastructure and environmental clean-up. The Environmental Council of the States (ECS) sent a letter to EPA and OMB urging them not to cut those programs.

ECS wrote that "cuts to [state and tribal] categorical grants, or to EPA programs operated by states, will have profound impacts on states' ability to implement the core environmental programs as expected by our citizens."

More than 90 percent of EPA programs are carried out by state environmental regulators. That's something that concerns Pruitt, who promised to push back against OMB and preserve grants to states.

“I am concerned about the grants that have been targeted, particularly around water infrastructure, and those very important state revolving funds,” Pruitt told E&E News Tuesday.

“What’s important for us is to educate OMB on what the priorities of the agency are, from water infrastructure to Superfund, providing some of those tangible benefits to our citizens,” Pruitt said, “while at the same time making sure that we reallocate, re-prioritize in our agency to do regulatory reform to get back within the bounds of Congress.”

Agri-Pulse

<https://www.agri-pulse.com/articles/8981-pruitt-epa-rewrite-will-limit-reach-of-wotus-rule>

Pruitt: EPA rewrite will limit reach of WOTUS rule

By Philip Brasher 3/1/17

WASHINGTON, March 1, 2017 - The EPA will write a new definition of “waters of the United States” that is less expansive than the Obama administration’s rule that the agency is withdrawing, EPA Administrator Scott Pruitt said today in an exclusive Agri-Pulse interview.

Pruitt declined to estimate how long it would take for the agency to write a new WOTUS rule, which spells out what wetlands, streams, ditches and other land features are regulated by the Clean Water Act.

But the Trump administration is shifting away from using a legal approach followed by the Obama rule that appeared to extend the law’s jurisdiction to some wetlands and other areas that were not considered regulated before.

The Obama rule “defined waters of the United States so broadly ... that there really weren’t any boundaries between federal and state jurisdiction,” said Pruitt, who as Oklahoma’s attorney general filed one of several lawsuits against the rule.

“Federal jurisdiction usurped and displaced state jurisdiction. So that needs to be fixed. We need regulatory certainty around that, so that’s what we’re going to seek to achieve.”

Pruitt, who is in his second week on the job, also said that he wanted to accelerate the approval process for pesticides and industrial chemicals and was seeking to protect from spending cuts EPA’s funding programs for water infrastructure.

“We’re already in discussions on how to” speed the approval process for pesticides and chemicals, he said. “It’s absolutely a commitment that I’m seeking to establish,” he said.

The White House is planning deep cuts in non-defense discretionary spending at EPA and across the government. According to reports, the White House may propose slashing EPA’s \$8 billion

budget by 24 percent alone. Pruitt said it was too soon to say what areas at his agency would be reduced. The state and tribal grant programs alone that he wants to protect account for 42 percent of EPA's total budget.

In a White House ceremony with President Trump on Tuesday, Pruitt signed an advance notice of proposed rule-making (ANPR) that starts the process of replacing the Obama administration's WOTUS rule.

The new rule will be developed in conjunction with the Army Corps of Engineers, which shares responsibility for enforcing the Clean Water Act. The new administration wants to limit the law's jurisdiction to how it was interpreted by the late Justice Antonin Scalia in the Supreme Court's 2006 Rapanos decision. Scalia said the law grants jurisdiction only over "relatively permanent bodies of water."

The Obama administration had been adhering to a separate opinion written by Justice Anthony Kennedy that said wetlands and other water bodies with a "significant nexus" to navigable waters also were subject to jurisdiction under the water law. Scalia's opinion was signed by the court's other three conservative justices at the time. Kennedy sided with them in the outcome of the case but wrote his separate opinion.

Pruitt said Kennedy's "significant nexus" terminology entailed a subjective approach to defining federal jurisdiction. It "provided no objective criteria. It's a case-by-case review. That's the poorest form of rule-making. Rule-making and regulations ought to provide a framework ... for people to make decisions, allocate resources and know what's expected of them," he said.

So, the new rule will be less expansive than the Obama rule? "Yes, yes," he replied.

Obama's EPA "so expanded jurisdiction of the Clean Water Act that it just made it a statute like Congress never intended it to be. They never intended the EPA to have ... jurisdiction over puddles and dry creek beds across the country," he said.

"That has to be fixed going forward, and that means the Kennedy definition is something that doesn't provide" the necessary clarity, he said.

The Obama rule included language for making case-by-case determinations of whether streams or wetlands would be deemed tributaries of a navigable waterway. "Significant nexus" was broadly defined in the rule as meaning a wetland or other water body that "significantly affects the chemical, physical, or biological integrity" of a navigable waterway. A wide variety of wetland functions could have met the definition, ranging from sediment trapping to the presence of waterfowl.

Environmentalists dispute the Trump administration's criticism of the rule. The rule was "grounded in science and law" and was "developed over many years, after more than 1 million public comments," said Rhea Suh, president of the Natural Resources Defense Council. "We all rely on healthy wetlands to curb flooding, filter pollutants, support fish, waterfowl and wildlife, and feed our rivers and lakes."

Because Pruitt was tied up with the WOTUS issue, he said he was unaware of a kerfuffle that erupted in the renewable fuels industry on Tuesday when rumors surfaced that Trump would issue a “not negotiable” executive order that would change the point of obligation under the Renewable Fuel Standard. Refiners are lobbying EPA to shift the responsibility for meeting biofuel usage mandates to fuel marketers.

Tuesday’s reports indicated that the executive order would have changed the point of obligation in exchange for administrative assistance on a Reid vapor Pressure (RVP) waiver that would allow E15 – a gasoline blend with 15 percent ethanol – to be sold during the summer months.

EPA is reviewing comments on the issue. “I’ve not seen any kind of summary from our office on that process yet,” he said.

Politico

<https://www.politicopro.com/energy/story/2017/03/pruitt-hints-at-pushback-on-white-house-proposals-to-slash-water-grants-brownfields-150236>

Pruitt vows to protect water grants, brownfields programs White House wants to slash

By Alex Guillen 3/2/17, 10:54AM

EPA Administrator Scott Pruitt said Thursday that he wants to protect state water grants as well as the brownfield program, despite the White House’s proposal to slash state grants and zero out the clean-up program.

Pruitt did not directly discuss the White House’s proposed cuts included in the “pass-back” budget sent to EPA this week, but asked a gathering of mayors to help him convince the administration not to seek major cuts to those key programs.

He specifically discussed the twin state revolving funds for drinking water and clean water that make up around \$2 billion of EPA’s annual budget, as well as the nascent, and relatively small, Water Infrastructure Finance and Innovation Act program.

“States across the country, cities and town across the country, have relied upon those grants for a long, long time to improve water infrastructure,” he told a gathering of the U.S. Conference of Mayors. “We have a water infrastructure issue right now across this country.”

Pruitt said he will attend a White House meeting at 1 p.m. to discuss infrastructure issues, and he assured the mayors that he will make sure the administration considers water infrastructure alongside projects like roads and bridges. Pruitt did not say who he would be meeting with, but President Donald Trump and Vice President Mike Pence are both scheduled to be out of town this afternoon.

Those water infrastructure grants are at the “core” of EPA’s mission, along with vital clean-up programs such as brownfields and Superfund, Pruitt said. The White House has proposed zeroing out EPA’s brownfields program, which cleans up abandoned industrial sites for new uses.

“I want to be able to share [with the White House] that the investment in that brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits for the community and environmental benefits as well,” Pruitt said.

Pruitt did not mention EPA’s air grants, which are worth hundreds of millions of dollars each year for states to monitor and improve air quality, but he did note that significant swaths of the U.S. do not meet the ozone standard.

An EPA spokesman told reporters after Pruitt’s appearance that Pruitt’s mention of non-attainment issues shows he considers it an important issue. “That’s a topic that we’re going to have to get into and that is being discussed inside the EPA right now internally, how we work on air grants,” the spokesman said.

“There’s a purpose behind his words. He wants to make clear that there are certain things that EPA does that the mayors and their constituencies’ needs, and Congress and their constituencies need and want, that is good for jobs, the economy, the environment,” the spokesman added.

CNN

<http://www.cnn.com/2017/03/02/politics/epa-programs-donald-trump-budget/index.html>

Source reveals EPA programs Trump's budget could cut

By Rene Marsh and Eli Watkins 3/2/17, 8:00AM

Washington (CNN)A wide slew of Environmental Protection Agency programs could be under the knife to meet President Donald Trump's budget proposal requirements, a source told CNN Wednesday night.

The source spelled out details of an Office of Management and Budget proposal that would cut the EPA's budget by 24% and reduce its staffing by 20%. Some of the EPA's most longstanding and best-known programs are facing potential elimination -- including initiatives aimed at improving water and air quality as well as a number of regulations tasked with reducing the nation's greenhouse gas emissions.

Other programs include the Environmental Justice program, which is meant to help local communities grapple with environmental concerns, and Global Change Research, a program funded by several agencies, including the EPA, which reports humans' impact on the planet.

The Clean Power Plan, which could also be recommended for cuts, was an initiative by former President Barack Obama meant to reduce carbon emissions from each state. Fourteen separate EPA partnership programs to reduce greenhouse gas emissions could also be on the chopping block.

Also among the programs up for elimination are multi-purpose grants to states and tribes, Energy Star grants, Science to Achieve Results (STAR) graduate fellowships, the Diesel Emissions Reduction Act and initiatives aimed at environmental protections along the US-Mexico border.

Some of the grants recommended for elimination could be matching grants for local projects around the country, the source added.

Ken Cook, the head of the Environmental Working Group, an advocacy and research organization, told CNN in a statement: "The Trump administration has decided fence-line communities across the country, whose residents already bear an outsized burden from pollution, are on their own to take on big polluters."

The EPA did not return a request for comment about the recommendation for budget cuts and staff reduction. CNN has also reached out to the White House for comment.

John Coequyt, a campaign director of the progressive environmental group Sierra Club, called the plan ludicrous and said the administration wouldn't be able to get signoff on these cuts from the legislative side. He also argued that zeroing out the Environmental Justice program, which focuses on fair protection from environmental and health hazards for people of all races and incomes, has racial motivations.

"To cut the Environmental Justice program at EPA is just racist," he said. "I can't imagine it's an office that runs up much cost. I can't describe it in any other terms than a move to leave those communities behind. I can't imagine what the justification would be, other than racism."

The sizable cuts won't play well around the country, he added.

"States and Congress won't go for this. They are proposing cutting programs that are connected to jobs in states and programs that address environmental issues," Coequyt said.

The Trump administration has put together a budget calling for an more than \$50 billion increase in defense spending and an equal cut to non-defense spending to make up the balance. Trump's budget director, OMB chief Mick Mulvaney, unveiled the proposal Monday at the White House, and a source told CNN to expect calls for substantial cuts to the State Department and the EPA.

Asked by CNN's Wolf Blitzer on Tuesday about possible cuts, newly-minted EPA administrator Scott Pruitt said it is "very important to protect" grants that are meant to help states with water infrastructure, and he believes the EPA has a "very important role" managing air and water quality across the country. Still, he tried to reassure those concerned about potential budget cuts and layoffs, saying the process is ongoing.

"What we need to realize is this is the beginning of the process, not the end of the process," Pruitt said.

The source who told CNN about the plan pointed out that Pruitt was so far the only permanent political employee at the agency.

I

n an interview Tuesday evening with E&E, an environmental policy-focused news outlet, Pruitt said he is concerned about cuts to grants and that he has spoken to Mulvaney about them.

"I am concerned about the grants that have been targeted, particularly around water infrastructure, and those very important state revolving funds," Pruitt said.

Pruitt was previously the Oklahoma attorney general and led lawsuits against the EPA during the Obama administration. Emails released after his confirmation to lead the EPA showed behind-the-scenes collaboration with oil industry officials. Despite his past statements on climate science, Pruitt said at his confirmation that he did not believe climate change was a "hoax." However, he said climate change needs more debate, even though the overwhelming scientific consensus has said humanity is warming the planet through its release of carbon dioxide and other greenhouse gases.

The Hill

<http://thehill.com/policy/energy-environment/321979-epa-chief-defends-grant-programs-wh-is-eyeing-for-cuts>

EPA chief defends grant programs WH is eyeing for cuts

By Devin Henry 3/2/17 10:31 AM

Environmental Protection Agency (EPA) Administrator Scott Pruitt says he is urging the White House not to cut funding for several grant programs the Trump administration has targeted.

The White House is considering cutting a host of programs as part of an effort to slash the EPA's budget by up to a reported 24 percent.

Among those programs are grants for clean-up work at brownfields industrial sites and other grant programs for states, which Pruitt said Thursday should be protected.

“In this budget discussion that’s ongoing with Congress, it’s just starting, so there are some concerns about some of these grant programs that EPA has been a part of, historically,” Pruitt told a gathering of mayors in Washington on Thursday.

“I want you to know that with the White House and also with Congress, I am communicating a message that the brownfields program, the Superfund program, water infrastructure ... are essential to protect.”

Pruitt said funding for the superfund program, which aims to restore contaminated areas of the country, and clean-up at brownfields, former industrial sites too polluted for redevelopment, are priorities for him, and areas of the budget he will aim to protect in spending discussions.

“I want to be able to share that the investment with the brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits to the community and environmental benefits, as well,” he said

In a short speech to the mayors, Pruitt did not address other programs that are on the Trump administration’s chopping block, including climate change funding.

The reported budget proposal for the EPA — a potential \$2 billion cut to the agency’s \$8.1 billion budget — received mixed reviews on Capitol Hill this week. As expected, Democrats lambasted the idea, but some key Republicans were skeptical of it as well.

Pruitt told the mayors he also wants to help localities cut ozone levels to within the limits set by the EPA. He said he will push the White House to include water infrastructure in any construction package the Trump administration might put together this year.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482438&vname=dennotallissues&wsn=49856250

Proposed EPA Cuts Incense State Funding Proponents

By Sylvia Carignan 3/2/17

Environmental activists and former EPA staffers are shocked about proposed deep cuts to the agency's grants to states and skeptical those cuts can survive congressional scrutiny, while some Republicans say reining in EPA's budget is necessary.

Under a proposal from the Office of Management and Budget that circulated March 1 among environmental activists and associations, the Environmental Protection Agency could cut its grants to states by 30 percent in fiscal year 2018, putting about 20 grants on the chopping block.

The cuts are subject to congressional approval. The EPA has one day, March 1, to protest the suggestions.

Bill Becker, executive director of the National Association of Clean Air Agencies, sent an email to members March 1 about the proposed cuts.

The EPA has not verified the information in the email and has not provided responses to Bloomberg BNA's questions about the budget.

The proposal identified at least 22 grants and programs that would not be funded in fiscal year 2018, including those for the agency's Brownfields program, Energy Star, environmental justice, climate change research and health research.

The budget proposal also includes a 20 percent cut in EPA staff. The EPA's overall budget could be cut by 25 percent.

Contradicting Pruitt's Promise

“What people don't understand is a substantial portion of EPA resources go either directly to states, or what's technically called STAG,” the agency's State and Tribal Assistance Grants, said Mathy Stanislaus, former assistant administrator for the EPA's Office of Land and Emergency Management.

Those grants have been the largest part of EPA's budget request in past years. They formed about 40 percent of the agency's fiscal year 2016 and 2017 budgets. About \$3.3 billion of EPA's fiscal year 2017 budget was allocated for STAG.

The grants help states and tribes comply with EPA regulations and fund environmental projects. But the cuts contradict EPA Administrator Scott Pruitt's promise to place more control in states' hands, Becker said.

“We were expecting state grant programs were going to increase,” he told Bloomberg BNA. “Now we just have no idea what Congress is going to do.”

Gutting Brownfields Funding

Stanislaus said the decision to cut Brownfields grants doesn't align with Pruitt's or President Donald Trump's priorities.

“This does not make any sense,” he told Bloomberg BNA. “The Brownfields program is one of those programs that provides resources for local communities for economic development.”

The Brownfields program is currently funded at \$80 million, though President Barack Obama asked for the program to get an additional \$10 million in his most recent request. According to Becker's email, Brownfields grants would be cut to zero in fiscal year 2018.

Sue Boyle, head of the New Jersey Licensed Site Remediation Professional Association, said local officials are trying to figure out what that could mean for them.

“Everybody in my line of work has been trying to read the tea leaves,” she said.

In New Jersey, state-offered brownfields grants outnumber federal ones, she said. Cutting federal money may persuade grantees to seek grants at the state level.

“There are going to be states where the state programs are utilized even more than they were,” if federal funding is slashed, she said.

Larry Schnapf, chair of the Environmental Law section of the New York State Bar Association, said he doesn't think the federal brownfields cuts will make it through Congress. Cutting brownfields grants, which have enjoyed bipartisan support in past years, is “contrary to 20 years of federal policy,” he said.

“I just think this is budget cutters that are just looking for areas to trim, and I think there will be significant opposition,” Schnapf said.

Gone for Good?

Some of the programs listed have been left off past Democratic- and Republican-proposed budgets. In some cases, the agency cuts back on certain programs with the expectation that Congress will boost the numbers in the appropriations process. The popular clean water and drinking water state revolving funds, grants to state-run loan programs for rebuilding old water systems, are one example.

But Becker doesn't think Congress will revive the programs targeted in the budget document.

“You don't play games with that, especially in a budget period when there's going to be immense competition among budget programs,” he said. “I don't think they're playing that game assuming that Congress is going to fund programs.”

Tom Cole (R-Okla.), a member of the House Appropriations Subcommittee on the Interior Environment and Related Agencies, is concerned about some of the proposed EPA-wide cuts.

“When you're talking about cuts of that magnitude, you really are going to make (a) tremendous difference,” he said.

But Hal Rogers, (R-Ky.), a House Appropriations member and former chairman, said the agency still has fat to trim.

“I think EPA could stand the cuts. We've cut them back to 1989 staffing levels, but I still think they've been overextending their authority, even all the while,” Rogers said.

Marked for Cuts

Several of the programs on the list, including the Diesel Emissions Reduction Act grant program, were also targeted for funding cuts or elimination under the Obama administration.

Congress generally rejected Obama's proposed cuts to popular environmental grant programs, and in some cases, provided additional funding.

The DERA program, which funds projects to upgrade or replace older, higher-emitting diesel engines, is one of the EPA programs that saw its funding levels increase in recent years. The program's current annual funding level is \$50 million, compared to \$20 million in both fiscal 2013 and 2014.

Pruitt has indicated support for the DERA program. He said in a Feb. 24 statement announcing the grant that the EPA was “thrilled” to provide a \$1 million grant to Alabama that will be used to replace a diesel-powered ferry with a 100 percent electric ferry.

“This is a tremendous example of how EPA collaboration with state partners can produce environmental as well as economic benefits,” Pruitt said. “These grants provide not only environmental and health benefits by eliminating exposure to diesel exhaust, but cost-effectiveness as well.”

Reliance on Federal Funds

The Association of Clean Water Administrators, which represents state and interstate water pollution agencies, hasn't been able to verify the cuts, but told Bloomberg BNA that their members rely heavily on state and tribal grants. For instance, the Clean Water Act's Section 319 grants are used to address nonpoint sources of pollution, such as agricultural runoff containing nitrogen and phosphorus that cause algae blooms and subsequent fish kills.

“Robust STAG funding is essential to implementation of environmental programs delegated to states, and significant cuts to state funding would seem to counter the messaging from the administration that states and EPA ‘are partners’ in carrying out the work of protecting public health and the environment,” Julia Anastasio, the association's executive director and general counsel, said when asked about the impact of the cuts.

The largest chunk of the state and tribal grants includes money for the state revolving funds for drinking water and clean water programs that provide a combination of low-interest loans and grants to municipalities to repair, rehabilitate and rebuild aging water infrastructure.

Pruitt told Bloomberg BNA he has been quietly pushing the White House to set aside funding for water infrastructure, but it is unclear how much of a priority that will be for the agency.

Ironically, Trump pledged during his campaign and after his election to triple these funds to the levels enacted in 2009 in his quest to improve and rebuild the nation's crumbling infrastructure.

In prior years, the Obama administration has proposed to zero out grants to monitor water quality at beaches, but Congress has always restored it during the appropriations process.

It is unclear, however, whether the Trump administration is proposing cuts to the beach grants program or some other research program within the EPA.

A year ago, Obama requested about \$9.6 million in his fiscal 2017 budget to improve the water quality in the Long Island Sound in New York, Lake Champlain in Vermont, San Francisco Bay and South Florida. Congress, in response, appropriated \$14.8 million for all three programs.

Little Change for Chemicals

Lynn Bergeson, managing partner of Bergeson & Campbell PC, a Washington, D.C.-based law firm that specializes in chemical and pesticide regulations, told Bloomberg BNA this is good news for the EPA's Office of Chemical Safety and Pollution Prevention Office, which oversees both chemicals and pesticides.

The OMB did not recommend any cuts to either the chemicals or pesticides offices, she said.

That gives the EPA flexibility. Given the Trump administration's priorities, the agency could choose surgical cuts in the budgets and staff within the air and water offices, while ensuring the chemicals and pesticides program have the resources they need to function, Bergeson said.

Both the chemicals and pesticides office are starved for staff right now, given the attrition that occurs at the end of every administration, she said.

Cuts in the chemicals program are not sustainable if the EPA is to deliver the enhanced chemical oversight Republicans and Democrats approved when they amended the Toxic Substances Control Act in 2016, Bergeson said.

Jack Pratt, chemicals campaign director at the Environmental Defense Fund, told Bloomberg BNA: "You can't burn down my house and still expect me to cook dinner just because the kitchen's still standing."

"These type of drastic funding cuts would hobble the agency across the board and would be certain to affect every program, even the ones not specifically targeted," Pratt said.

But he said a lot of work remains ahead.

"We are hopeful that the more responsible voices on both sides of the aisle will see this for what it is: a press release budget that might play well in certain circles, but will be dead on arrival in Congress," he said.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482440&vname=dennotallissues&wsn=49856600

Executive Order on Clean Power Plan Next Week, Per White House

By Ari Natter 3/2/17

President Donald Trump plans to issue an executive order instructing the EPA to begin re-doing the Clean Power Plan and overturn a federal moratorium on new coal leases on federal lands next week, White House spokeswoman Kelly Love said in an email.

Environmental Protection Agency Administrator Scott Pruitt, an opponent of the Clean Power Plan, had suggested an executive order directing the agency to begin the work to rescind the carbon dioxide emissions limits on power plants was imminent during a recent speech at the Conservative Political Action Conference.

“We have to send a message across the country that we're going to provide certainty by living within the framework Congress has passed,” Pruitt said. “So we're going to see regulations rolled back that aren't consistent with that—[Waters of the U.S.], Clean Power Plan, the methane rule.”

Trump just directed the EPA to rescind another Obama EPA rule intended to determine the jurisdiction of the Clean Water Act as the new administration aims to roll back burdens on industry groups, particularly the fossil fuel industry.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482432&vname=dennotallissues&wsn=49856450

Pruitt Sees Glimmer of Hope for Water Infrastructure in Trump Speech

By Dean Scott 3/2/17

President Donald Trump barely mentioned clean water but did talk a lot about infrastructure in his speech to Congress Feb. 28—enough to assure the new head of the Environmental Protection Agency that U.S. water projects won't be an afterthought in Trump's \$1 trillion infrastructure spending effort.

“I think infrastructure at times is interpreted only as roads and bridges,” Scott Pruitt, who was confirmed to head the agency less than two weeks ago, told Bloomberg BNA after Trump's address to Congress.

Pruitt said he has been quietly urging the White House to be sure to set aside some of the new funding Trump is readying for transportation and other infrastructure; Trump vowed to find \$1 trillion in combined public and private money.

“One of the things I’ve tried, in communicating to the White House, is that when we talk about infrastructure spending outside of the budget this year, water infrastructure needs to be part of that,” Pruitt said in an interview.

“It’s a key aspect of how we do business with the states,” Pruitt said. States rely heavily on federal dollars for water infrastructure improvements: Since 1987, according to EPA figures, the federal Clean Water State Revolving Fund has provided more than \$118.8 billion in funding and loans to local communities for water projects.

In addition, the Association of Metropolitan Water Agencies has estimated that the nation’s water infrastructure needs could increase by as much as \$944 billion by 2050.

A Telling Reference to ‘Clear’ Water?

It remains unclear, however, how much of a priority infrastructure will be. Trump and Congress currently are wrestling with a crowded legislative agenda that includes confirmation of his Cabinet and other officials as well as the Affordable Care Act and fiscal 2018 budget.

It’s also unclear how a bigger emphasis on water projects would be squared with Trump’s broader budget priorities, which reportedly include deep cuts in the EPA’s budget of roughly \$8 billion. Overall, Trump said little in his first speech before a joint session of Congress on the environment and water issues beyond pledging to work with both parties “to promote clean air and clear” water.

But Pruitt saw a connection. “I think [a] clean air and water reference in the speech is encouraging, but we’ve got work to do with respect to our team” in elevating the importance of water projects to the White House, Pruitt said.

Infrastructure spending “after all, is very essential to our water quality, as you know,” Pruitt said. “And that’s something I hope to build and to advance to the White House with success—through infrastructure spending.”

Pruitt didn’t seem overly concerned about one big omission in Trump’s speech—any reference to solar, wind or other renewable energy; in fact, the president never actually uttered the word “energy” in his hour-long speech.

Trump also didn’t mention the Flint, Mich., water crisis due to lead contamination in the community’s drinking water, though he said the U.S. has lost its way in funding one “global project after another” while ignoring “the fates of our children in the inner cities” of Chicago, Baltimore and Flint’s neighboring city, Detroit.

Silence on Renewable Energy

Pruitt—who was seen by Democrats and environmental groups as too friendly to industry in repeatedly suing the EPA during his previous post as Oklahoma attorney general—said the

omission of any clean energy reference wasn't surprising.

“Look, I didn't take anything from that, you know, that part of what he said tonight was [Trump] being anti-renewable energy,” Pruitt said.

The president did refer to energy-related projects, such as his efforts to restart the Keystone XL pipeline. But the president steered clear of any mention of climate change, and the absence of a line or two on clean energy was a departure from what had been reliable applause lines in such speeches for President Barack Obama but also George W. Bush.

“What the president has said, and I think it's right, is that historically we shouldn't use regulatory policy to pick winners and losers” in pitting renewable energy against other sources such as natural gas and coal, Pruitt said.

“I mean, in my state of Oklahoma, we are in the top three of the country in providing electricity through renewable energy like wind, and that's a good thing,” the EPA head said.

Utilities that generate electricity should be able to make “a market-based decision” in choosing their energy mix, Pruitt said.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482439&vname=dennotallissues&wsn=49856500

White House Said to Propose 25 Percent Cut in EPA Budget Plan

By Ari Natter and Christopher Flavelle 3/2/17

The White House has recommended cutting the Environmental Protection Agency's budget by 25 percent and eliminating thousands of jobs and more than a dozen programs, according to an opponent of the budget plan.

The Office of Management and Budget blueprint given to the EPA includes ending programs such as one that protects coastal beaches and another that safeguards homeowners against radon poisoning. Grants to states would be slashed by 30 percent under the plan.

“These are shocking figures,” said William Becker, the executive of the National Association of Clean Air Agencies, who obtained the plan. “These budget cuts would be devastating not only to EPA, but to state and local air pollution control agencies.”

Becker said he received the figures from a government official he declined to identify. The EPA has been asked to suggest alternatives, according to Becker, whose group represents state officials responsible for cutting air pollution. Becker has led the Washington-based group for more than 35 years.

Spokespeople for the EPA and budget office didn't respond to several requests for comment. The budget request President Donald Trump will present to Congress is still weeks away, and so the specific programs and reductions could change.

Still, the document shows the reductions necessary at agencies in order to meet the blueprint laid out this week by Mick Mulvaney, the head of the budget office. The White House said it would propose boosting military spending by \$54 billion, while slashing other departments to offset that increase. The EPA has a budget of about \$8 billion and employs about 15,000 people.

One program set for elimination was set up to help implement the Clean Power Plan, a rule EPA Administrator Scott Pruitt has pledged to dismantle.

The EPA “probably spends a lot of unnecessary funds on promoting a political agenda and it probably needs to be rolled back,” said Rep. Lamar Smith of Texas, who chairs the House Science Committee.

Other cuts appear to run counter to a pledge from Pruitt that EPA grants to states would be preserved. Instead those grants would be slashed by 30 percent under the plan.

“These proposed cuts negate any goodwill Trump may have shown during his congressional address, including his empty promises to promote clean air and water,” Travis Nichols, a spokesman for the environmental group Greenpeace, said in an email.

Another one of the more than 20 programs scheduled for elimination helps native villages in Alaska pay for safe drinking water and wastewater disposal. The state says it will fight to save it.

“I'm trying to reach out to anybody who has any influence on the federal government, to really take a look at not cutting this portion of the EPA,” Katherine Eldemar, director of Alaska's Division of Community and Regional Affairs, said in an interview.

Cutting the EPA's budget by nearly a quarter would likely be an uphill battle in Congress, especially in the Senate where Democratic support would be needed for passage.

“I would hope there would be many members of Congress who recognize that whatever policy differences that they had with the agency that is different from the basic organizational integrity of the EPA,” said Stan Meiburg, who served as the EPA's acting deputy administrator during the Obama administration.

Reuters

<http://www.reuters.com/article/nrdc-epa-idUSL2N1GF0HL>

Environmental group sues EPA over municipal waterway pollution

By Rebecca Beyer 3/2/17 7:33 AM

The Environmental Protection Agency has failed to fulfill its duties under the U.S. Clean Water Act to reduce pollutants in recreational waterways in Los Angeles and Baltimore, the Natural Resources Defense Council claimed in two lawsuits filed this week.

The NRDC petitioned the EPA to address the pollution in the waterways in 2015. Becky Hammer, an NRDC lawyer, said the environmental group was suing now because the agency had taken no action.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/02/former-epa-scientists-to-trump-evidence-does-not-change-when-the-administration-changes/?utm_term=.e294f76e68ae

Former EPA scientists to Trump: ‘Evidence does not change when the administration changes’

By Chris Mooney 3/2/17 8:00 AM

The Trump administration’s proposal to cut the Environmental Protection Agency is looking dramatic indeed. The plans call for laying off thousands of staff, eliminating entire programs and making deep cuts to the agency’s research office, the Office of Research and Development (ORD), according to recent reporting by The Washington Post.

That’s not to say all of this will happen — or that any of it will. Congress makes the final decisions on funding the government. But it’s a stunning proposal to researchers familiar with the workings of the EPA.

“I think a deep cut would be devastating to the nation’s capacity to do environmental health and ecosystem research,” said Jonathan Samet, a former chair of the agency’s Clean Air Scientific Advisory Committee who is now a professor of medicine at the University of Southern California.

Samet and two other former EPA science officials — Thomas A. Burke, who served as the agency’s science adviser and headed up ORD under President Barack Obama, and Bernard Goldstein, who was EPA’s assistant administrator for research and development under President Ronald Reagan — went even further in a commentary published Wednesday, calling on

President Trump to change course and stand up for the agency and science.

“Evidence-based decision making on the environment should not be abandoned,” the two scientists write in a timely essay in the New England Journal of Medicine. “Reasoned action and acknowledgment of scientific truth are fundamental to democracy, public health, and economic growth. Scientific evidence does not change when the administration changes.”

The researchers now all hold academic posts. They describe the EPA’s Office of Research and Development as the “preeminent environmental research organization, a cornerstone of our global leadership in environmental science, and a key player in the training of environmental health scientists.” The ORD had a budget of \$521 million in 2015 with a staff of 1,755.

And the Post reported Wednesday that the administration is considering a proposal to cut this office by “up to 42 percent.”

There are many reasons that would be devastating, Samet said in an interview. One of them is that when environmental crises happen, like the Flint, Mich., or Deepwater Horizon disasters, you need a science infrastructure that’s ready to move. In these crises “that demand research and environmental surveillance and quickly trying to assess the toxicity of agents, the nation needs the capacity that ORD has,” Samet said.

Samet and his co-authors aren’t the only academic scientists standing up for the EPA right now. Others are reacting to the first of many expected environmental rollbacks — Trump’s executive order this week directing the agency to rescind the “Waters of the U.S.” rule, which sweeps many smaller waterways under the protections of the Clean Water Act.

Seven presidents of scientific organizations representing more than 200,000 members have signed a letter opposing the first of many expected environmental rollbacks: Trump’s executive order this week directing the agency to rescind the “Waters of the U.S.” rule, which would protect many small waterways. The researchers argued the rule was based on solid science when it comes to the understanding of the importance of wetlands and how they relate to larger bodies of water.

The scientific societies weighing in are the Society of Wetland Scientists, the American Fisheries Society, the American Institute of Biological Sciences, the Ecological Society of America, the Phycological Society of America, the Society for Ecological Restoration, and the Society for Freshwater Science.

The more Trump and his administration propose environmental rollbacks and cuts to environmental or other science funding, the more researchers can be expected to speak out. Thousands are expected to march on Washington, and around the globe, on April 22 — Earth Day.

E&E News

<http://www.eenews.net/eedaily/2017/03/02/stories/1060050796>

Proposed budget cuts will be 'devastating' — ex-chief

By Kevin Bogardus 3/2/17

Former U.S. EPA Administrator Gina McCarthy said yesterday that President Trump's proposed budget cuts for the agency would be crippling.

In a television appearance on MSNBC, the former Obama-era agency chief said Trump's plan to cut EPA's budget by a quarter, about \$2 billion, would be "devastating."

"This is actually going to be devastating for the agency's ability to protect public health," McCarthy said.

McCarthy said she understood that the Trump administration was not likely to support former President Obama's efforts to combat climate change, "but this is going to the heart of our air and water protections."

"This is going to the heart of how EPA protects public health and American families," McCarthy added.

Trump's budget proposal for EPA targets several agency programs, not just climate initiatives, and would reduce the agency's workforce by 3,000 employees.

EPA Administrator Scott Pruitt has said that he has expressed concerns about the budget plan to Office of Management and Budget Director Mick Mulvaney.

"This is early in the process. These are discussions that are occurring with OMB and the executive agencies. I've emphasized the importance of those state revolving funds, of those [Water Infrastructure Finance and Innovation Act] grants, of making sure that we partner with the states in a very good way on water infrastructure," Pruitt said in an interview after Trump's address to the joint session of Congress on Tuesday night (E&E Daily, March 1).

Ex-New Jersey Gov. Christine Todd Whitman (R), who was President George W. Bush's first EPA administrator, also appeared on MSNBC with McCarthy. She said she was "fairly skeptical" of Trump's EPA, given the mixed signals that come from the president.

"It's a little hard to figure out this president, though, because he will say one thing in one minute and then find that some member of his Cabinet is doing something else, which you have to believe is coming from him," Whitman said.

Since his confirmation by the Senate last month, Pruitt has pledged to roll back some environmental regulations, beginning that process with the Waters of the U.S. rule this week, which he sued EPA over as Oklahoma attorney general. He also has doubted whether EPA has

the authority to act on climate change.

"If the tools aren't in the toolbox and Congress hasn't spoken on the issue, agencies can't just make it up," Pruitt said Saturday at the Conservative Political Action Conference (E&E Daily, Feb. 27).

Whitman noted that EPA has been authorized by Congress to take action to protect the environment. The former agency chief said EPA had to act on climate change in a response to the 2009 finding that carbon emissions were harmful.

"That happens when you have a finding, let's say, of endangerment as with carbon, which was settled by the U.S. Supreme Court," Whitman said. "That was something that they had to take action. Didn't have a choice."

E&E News

<http://www.eenews.net/eedaily/2017/03/02/stories/1060050798>

GOP bill limits federal jurisdiction of navigable waters

By Ariel Wittenberg 3/2/17

Rep. Mac Thornberry (R-Texas) is hoping to quiet the debate over how far federal jurisdiction reaches under the Clean Water Act, filing a bill yesterday to amend the 1972 law to provide more clarity.

The "Federal Regulatory Certainty for Water Act" (H.R. 1261) would define the term "navigable waters of the U.S." under the Clean Water Act.

Until now, it has been up to U.S. EPA and the Army Corps of Engineers to define the term, which is not defined under the current law.

The topic has been hotly debated in recent years, with the Obama administration issuing its Clean Water Rule, also known as the Waters of the U.S., or WOTUS, rule, in an effort to clarify federal jurisdiction for wetlands and small waterways.

WOTUS was strongly opposed by farmers, land developers and energy companies for what they called federal overreach. Its implementation has been stayed by the courts pending litigation, and President Trump signed an executive order Tuesday directing EPA and the Army Corps to review and possibly rescind or replace the rule.

Thornberry's bill is an apparent direct response to WOTUS, specifically exempting many of the waterways the regulation would have included under federal jurisdiction.

His legislation would define "navigable waters" as waters that are either "navigable in fact" or those that have a permanent or continuously flowing bodies of water that form streams, rivers, lakes and oceans "that are connected to waters that are navigable in fact."

The bill also explicitly excludes waters "that do not physically abut" actually navigable waters through a surface water connection.

"Folks who live and work in our part of Texas, especially the farmers and ranchers, understand the importance of clean water and work hard to be good stewards of the land. This bill will help protect the personal property and water rights that are so fundamental to the American way of life, a family's business, and many people's livelihoods," Thornberry said in a statement.

The legislation would also exclude wetlands, playa lakes, prairie potholes, wet meadows, wet prairies and vernal pools, which were not covered by the Clean Water Act for the past decade and a half until the Obama administration decided in WOTUS that they should be considered for inclusion on a case-by-case basis. WOTUS also would have allowed those water features to be considered as a system, something Thornberry's bill would explicitly prohibit.

In Trump's executive order, he directs EPA and the Army Corps to consider whether a 2006 Supreme Court opinion written by late Justice Antonin Scalia should be used to decide which wetlands and streams are protected under the Clean Water Act.

Doing so would mark a significant change in the government's legal strategy for deciding federal jurisdiction, since both the George W. Bush and Obama administrations instead relied on an opinion by Justice Anthony Kennedy in that same case, *Rapanos v. United States*.

In a 4-1-4 vote, five justices ruled against EPA but split on which approach to use to define government jurisdiction, with Scalia's opinion for the four conservative justices being more limiting than Kennedy's stand-alone opinion.

Scalia, who died last year, argued that the Clean Water Act only applied to "navigable waters" connected by a surface flow at least part of the year. Kennedy said waters must have a "significant nexus" to actually navigable rivers and seas, which could include biological or chemical connections.

Thornberry's bill, however, would potentially be a more limiting definition of "navigable waters of the U.S." than Scalia's opinion.

Not only does Thornberry's bill explicitly exclude wetlands from federal jurisdiction but also excludes tributaries "through which water flows intermittently or ephemerally."

Scalia's opinion on intermittent streams has been subject to much debate in lower courts. While he argued in the body of his opinion that only "relatively permanent standing or continuously flowing bodies of water" should be protected by federal jurisdiction, he wrote in a footnote that his opinion did "not necessarily exclude seasonal rivers, which contain continuous flow during some months of the year but no flow during dry months."

Given the legal uncertainty, bills have been introduced on the issue in each of the past eight congressional sessions, but the legislation has never been signed into law.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/trumps-wotus-order-150061>

Trump's WOTUS order opens up options for EPA

By Annie Snider 3/2/17, 5:02AM

The executive order President Donald Trump signed on Tuesday may show his commitment to undoing the Obama administration's Waters of the U.S. rule, but it doesn't offer many clues about the path his administration will take to try to get there.

Between the battle currently churning in the courts over the rule and the formal rulemaking process that would be needed to unwind it, the Trump administration will need to move cautiously as it calculates its next steps.

The key question is whether the Trump administration's goal is to simply kill the Obama administration rule or try to write its own version that answers the underlying question of how far the Clean Water Act's protections reach.

That decision will be hard to make while several key administration positions sit empty. Scott Pruitt has been EPA administrator for less than two weeks, and he has yet to get a deputy, general counsel or assistant administrator for water, all of whom would be key advisers on how to proceed on the convoluted legal issue. Likewise, the post of assistant secretary of the Army for Civil Works, which oversees the Army Corps of Engineers, is unmanned and likely to remain so for a while, since Trump's pick for the top Army post withdrew his nomination in late February.

Pat Parenteau, a long-time environmental lawyer who now teaches at Vermont Law School, warned that until Pruitt installs own people to manage the review process at the agency, he could face fierce pushback from career staffers who developed the Obama administration rule.

“If he doesn’t have a core, a cadre of loyal staff people around him, it’s going to take months because I know what this agency is going to do — it’s going to slow walk this stuff,” Parenteau said.

Revising or rescinding the water rule, as the executive order instructs the EPA and Army Corps of Engineers to do, would require a rulemaking of its own — a process that could be undertaken a few different ways with differing timelines. Shortly after Trump signed the order, Pruitt signed his own Federal Register notice alerting the public that it intends to undertake a review of the rule and at some point in the future issue an advanced notice of proposed rulemaking.

Regardless of whether the Trump administration opts to use that for a straight withdraw of the rule or a major rewrite of it, EPA will have to justify the changes in its final rule and will need top-notch legal expertise to convince judges to uphold it. Environmental groups and states supportive of the Obama rule are already preparing to challenge the move in court.

Jamison Colburn, a former EPA litigator who now teaches at Penn State Law, said it will be important for the agency to have a clear picture of what it wants its outcome to be before it begins that rulemaking process.

“The Notice of Proposed Rulemaking that goes out is going to control whatever challenges people who are disappointed with the outcome can bring from a procedural standpoint. If it doesn’t adequately signal what the agency’s expected actions are, you’re going to basically help them in their procedural challenges,” he said.

The legal side of the equation will be at least as important as the administrative moves to unwind the Obama rule, given that any changes to the Waters of the U.S. rule will face legal challenges that are almost certain to end up at the Supreme Court.

A Department of Justice spokesman said the agency is still reviewing the new executive order and wouldn’t comment on next steps. But some lawyers involved in the ongoing litigation say Justice Department lawyers have already begun reaching out to parties to the pending cases, feeling out their support for various approaches.

While Trump's executive order suggests his administration is planning to undo WOTUS through the rulemaking process, the agencies could try to head off environmentalists' court challenges by asking court justices for a voluntary remand of the rule first. If the Supreme Court agreed and handed the rule back to EPA, the agency could take its time reviewing the rule and deciding what, if anything, it wants to do next.

Going the voluntary remand route would also guarantee that the Obama rule doesn't go into effect in the meantime — a risk the Trump administration would face if it moves ahead with a rulemaking while the litigation continues to play out.

The 6th Circuit Court of Appeals has blocked implementation of the Obama rule nationwide while it weighs challenges, but it's not clear whether that court is the proper venue to hear the case. The Supreme Court has agreed to hear arguments relating to the question of judicial jurisdiction.

If the high court proceeds with that case and ends up deciding that challenges should go through district courts first, then that nationwide injunction would be dissolved. That would mean plaintiffs would need to go back to the more than a half dozen district courts where challenges to the Obama rule were filed to ask for a new injunction.

Alternately, Trump's Justice Department could ask the Supreme Court to dismiss the case because the administration is proceeding with a new rulemaking. But there's no guarantee that the court would bite, since most legal experts expect that the question of judicial jurisdiction will end up back before the court before long. Moreover, a move to dismiss would surely be challenged by environmentalists and other supporters of the Obama rule, and even industry groups that oppose WOTUS might not back the move since they, too, know that the venue question eventually needs to be answered.

Add to this legal morass the possibility that the Trump administration will decide to write its own rule dealing with the underlying question of which marshes, bogs and creeks should be federally protected under the Clean Water Act. Such a move would win plaudits from property rights activists and industry groups who have for years been keen to cement a more limited approach to federal power under the 1972 law.

Trump's executive order suggests he's got an appetite for that challenge: It orders the agencies to focus on late Supreme Court Justice Antonin Scalia's opinion in a 2006 case when weighing the extent of federal power under the Clean Water Act. The test Scalia set when writing for the court's four conservative justices would greatly restrict the number of streams and wetlands across the country that receive federal protection.

In that case, *Rapanos v. United States*, Justice Anthony Kennedy sided with conservatives, providing the crucial fifth vote overturning the federal government's broad approach to federal jurisdiction, but set his own test, which a half dozen circuit courts have agreed is the one that must be met. Both the George W. Bush administration and the Obama administration have pegged their regulatory efforts to Kennedy's opinion.

Any move to enshrine a narrower approach to federal water protections based on Scalia's opinion would spark another all-out legal assault, this time from environmental groups.

"If they adopt a rule that significantly weakens the Clean Water Rule, that ignores the science and the law, you can get there will be all kinds of challenges," said Jon Devine, senior attorney with the Natural Resources Defense Council.

All of these questions leave only one certainty, lawyers say: It will be years before the mass confusion over the scope of federal water protections is any closer to being resolved.

Politico

<http://www.politico.com/story/2017/03/trump-epa-environmental-regulations-235596>

Trump's green assault off tot fast start

By Andrew Restuccia 3/2/17, 5:09AM

President Donald Trump is carrying out the most aggressive rollback of federal environmental

rules since at least the Reagan administration.

And he's just getting started.

In just 40 days, Trump has made it easier for coal miners to dump their waste into West Virginia streams, ordered the repeal of Clean Water Act protections for vast stretches of wetlands, proposed massive job cuts at the Environmental Protection Agency and prepared to begin revoking the Obama administration's most ambitious climate change regulations.

Trump is also expected to overturn Barack Obama's moratorium on new federal coal leases, and is considering automakers' pleas for relief from a scheduled tightening of vehicle fuel-efficiency standards. Obama's pledge to send billions of dollars to United Nations climate programs is also likely on the chopping block. And Trump hasn't ruled out withdrawing the United States from the 200-nation Paris climate agreement, a step that could undercut the international effort to confront global warming.

Trump's actions are true to his campaign rhetoric, including his promises to "get rid of" the EPA "in almost every form." They thrill conservative groups like the Heritage Foundation that share his disdain for federal regulations and want Washington to give more control to the states.

But they run afoul of some of Trump's greener post-election head fakes, including a much-publicized meeting in Trump Tower with Al Gore and media speculation that the president's daughter Ivanka might serve as a de-facto climate czar.

Trump's approach alarms environmental advocates and their allies in Congress, who say his early policy moves threaten to pollute the nation's air and water while undermining the future of the planet. They would also hobble agencies like EPA: The spending cuts Trump has ordered would chop nearly 25 percent of that agency's budget, even sharper than the reductions Ronald Reagan oversaw in his first term.

Unlike Reagan, Trump has no Democratic House majority to resist his policies. And decades after Reagan left office, scientists warn that policymakers have little time left to prevent the most

catastrophic effects of climate change.

“I would call it the worst environmental disaster of all time if he has the ability to implement the plans which he has outlined,” Sen. Ed Markey (D-Mass.) said of Trump.

Even some Republicans are concerned.

“I haven’t ever really seen anything quite like this,” said Christine Todd Whitman, who served as George W. Bush’s first EPA administrator, warning that any effort to weaken enforcement of environmental rules could harm public health. “A lot of that enforcement is protecting people.”

The Environmental Defense Fund, which has for decades cultivated relationships with Republican administrations, was so concerned about Trump’s agenda that it publicly opposed Scott Pruitt’s nomination for EPA administrator, a first for the group. As Oklahoma’s attorney general, Pruitt had led legal challenges against a series of major EPA regulations, including a power plant rule that formed the centerpiece of Obama’s climate strategy.

“We’ve worked with every Democrat and every Republican and we’ve never opposed any Cabinet official, period,” EDF President Fred Krupp said in an interview. “That’s how far outside the bipartisan environmental tradition the agenda is.

“The very bedrock protections that have led to dramatically cleaner air and a healthy environment through both Democratic and Republican administrations are under attack,” he added.

The White House did not respond to a request for comment on this story. But conservatives say it’s about time someone started cutting back Washington’s tangled environmental bureaucracy.

“In a lot of ways the federal government has bitten off more than they can chew,” said Nick Loris, an energy and environment economist at Heritage, which worked closely with Trump

officials during the transition. “The Trump administration is undoing a lot of the regulations that the Obama administration put forth that would increase the cost of energy and would really be devoid of any environmental benefit.”

At the EPA, one career official said many nervous employees are living by two mantras: “Shelter in place” and “Wait and see.” The official said senior career staffers are “being kept out of the loop on major decisions” amid distrust from Trump’s political appointees.

“Some folks have zero work,” the official said. “Others, who the appointees trust because they are Republican, are getting overtime while their counterparts are dying to get work assignments.”

To some long-time environmentalists, Trump’s unabashed assault on key planks of Obama’s agenda are especially harrowing.

“Reagan and [George W. Bush] after him made their big moves on Friday afternoon when the media had gone home or cloaked in Frank Luntz cotton-candy phrasing so that only the intended donor beneficiaries would know what was happening,” said Carl Pope, who led the Sierra Club for nearly two decades. “Trump proclaims it in prime time. He’s not just trying to change policy. He’s trying to eliminate a key phrase in the Constitution: ‘promote the general welfare,’ by changing our public culture.”

At the EPA, some career employees privately draw comparisons between Pruitt and Anne Gorsuch Burford, who drew widespread criticism from environmentalists and Democrats while leading the agency during Reagan’s first term.

Burford — the mother of Trump’s Supreme Court nominee, Neil Gorsuch — slashed the EPA’s budget by 22 percent and once bragged that she cut the agency’s book of clean water regulations from 6 inches thick to a half-inch, according to her Washington Post obituary from 2004. Her tenure included being held in contempt by the House after Reagan ordered her not to turn over records about Superfund cleanups.

At the core of Trump’s approach to energy and environmental issues is a disdain for federal

regulation and bureaucracy, paired with a desire to streamline permit approvals. That was the motive behind one of his earliest executive actions, an order commanding federal agencies to rescind two regulations for every one they enact.

Trump has also signed off on congressional repeals of some Obama-era regulations, including an Interior Department rule meant to protect streams from pollution by mountaintop removal coal mining. And this week, he ordered EPA to begin rewriting the Obama administration's sweeping "Waters of the U.S." rule, a move that green groups say could leave 60 percent of U.S. stream miles and 20 million acres of wetlands unprotected from development or pollution.

Next week, Trump is set to sign an executive order that will start the process of unraveling Obama's most important climate change regulations, aimed at limiting greenhouse gas emissions from coal-burning power plants. Those rules were the centerpiece of Obama's commitment to other nations that the U.S., the world's second-biggest carbon polluter, would do its share to lessen the causes of global warming.

A person familiar with Trump's order said it is expected to emphasize increasing U.S. energy independence and maximizing domestic energy production on federal lands, while eliminating and streamlining regulations. The order will also overturn the Obama administration's 2015 moratorium on new coal leases on federal lands.

The order won't have instant effect: It could take years for EPA to undo the regulations, and the administration will face fierce legal challenges from environmental groups.

Despite Trump's aggressive early moves, some of his advisers are pushing a more moderate approach on environmental policy — chiefly Ivanka Trump and her husband, Jared Kushner. The couple succeeded in removing language criticizing the 2015 Paris climate deal from the president's upcoming executive order, as The Wall Street Journal first reported.

Trump's advisers have not yet fleshed out a detailed position on whether the U.S. should stay in the Paris agreement, according to a person close to the process. Some advisers have argued the U.S. should pull out altogether, a process that would take years under the agreement's rules. Others favor staking out a middle ground, perhaps by staying in the agreement and rewriting the emissions reduction targets that Obama set.

In some ways, the debate is symbolic: None of the carbon reductions outlined in the Paris deal are legally binding. But climate advocates say U.S. leadership is critical to getting other nations to follow through on their pledges — so a pullout could undermine the agreement.

Trump has been equivocal on the Paris deal, saying during the campaign that he would "cancel" the agreement but later saying he has an "open mind." Secretary of State Rex Tillerson said during his confirmation hearing that the U.S. must keep "its seat at the table" for climate talks, but didn't commit to staying in the agreement.

Trump's critics and supporters alike are looking for clues about his future policy moves in his remaining personnel choices.

For example, sources close to the administration told POLITICO the administration is considering nominating Kathleen Hartnett White, a former Texas environmental regulator who is a vocal skeptic of mainstream climate science, to lead the White House Council on Environmental Quality, a move that would infuriate green groups and signal a continuation of the president's current approach.

But sources said the White House is also considering less divisive candidates for the job. Those include Marty Hall, who was CEQ's chief of staff during the George W. Bush administration and is now an executive at the Ohio-based electric utility FirstEnergy.

In the meantime, though, defenders of the EPA are urging Trump not to ignore the agency's core missions, which are to protect human health and the environment.

"If EPA doesn't provide these protections, no one else will," said William Reilly, the EPA administrator under President George H.W. Bush. "No one else in the government has that mandate. It's EPA or nothing."

Alex Guillén contributed to this story.

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Breitbart

<http://www.breitbart.com/big-government/2017/03/02/farmers-applaud-trump-repealing-epa-water-rule/>

Farmers Applaud Trump for Repealing EPA's WOTUS Rule

By Joel B Pollak 3/2/17

Farmers are applauding President Donald Trump's executive order Tuesday that reverses the Environmental Protection Agency's "Waters of the United States" (WOTUS) rule, which gave the agency virtually limitless authority to regulate water on private land.

Introduced under President Barack Obama, the WOTUS expanded the EPA's interpretation of the Clean Water Act to include, as Texas Attorney General Ken Paxton said, "almost any piece of land that gets wet and puddles."

The Clean Water Act was intended to apply to "navigable" waters, but WOTUS interpreted that extremely broadly, so that it included waters with a "significant nexus" with navigable waters — in other words, taking in water that might eventually flow into navigable waterways.

The result was that the EPA could theoretically regulate everyday farming operations.

The Los Angeles Times notes that "farmers knew the cavalry was coming to their rescue on election night" because they expected Trump to repeal WOTUS. And on Tuesday, just hours before his first address to a special joint session of Congress, he delivered on those expectations.

The Times adds: "Trump had been uncharacteristically specific during his campaign about reversing the rules, and calls to 'Repeal WOTUS' were as common a rallying cry among growers as 'Build the Wall' was to his followers in rural manufacturing areas.

Newly-confirmed EPA director Scott Pruitt said in a statement: "The President's action preserves a federal role in protecting water, but it also restores the states' important role in the regulation of water."

The State of California has been increasing its role in regulating water on private land, expanding its authority to include groundwater — a response prompted by fears of overuse during the recent extreme drought and the ongoing restriction of federal water allocations due to efforts to preserve the endangered Delta smelt.

With regard to federal regulation of water, however, farmers in California share their counterparts' relief — and join those who feel satisfied that the new president is keeping his

promises, regardless of “resistance” from Democrats and the media.

Huffington Post

http://www.huffingtonpost.com/entry/former-epa-heads-blast-pruitt_us_58b728e1e4b019d36d1030be

Former EPA Head Says White House Budget An ‘Attack’ On Agency and Science

By Chris D’Angelo 3/1/17, 9:07PM

WASHINGTON — With oil ally Scott Pruitt now at the helm of the Environmental Protection Agency and a White House looking to axe one-quarter of the agency’s funding, two former EPA administrators felt no need to equivocate.

“This is actually going to be devastating for the agency’s ability to protect public health,” Gina McCarthy, who served as EPA chief under former President Barack Obama, told MSNBC.

In a joint interview Wednesday with MSNBC’s Greta van Susteren, McCarthy and Christine Todd Whitman, the former New Jersey governor who later served as EPA chief under President George W. Bush, warned that the proposed EPA cuts go far deeper than reeling in burdensome regulations.

McCarthy called the Trump administration’s budget proposal “an attack on the agency” that would reduce staffing levels to where they were 40 years ago.

“I understood that this administration was likely not supportive of climate initiatives, but this is going to the heart of our air and water protections. This is going to the heart of how EPA protects the public health of American families,” she said.

As The Huffington Post previously reported, the White House is looking to cut the EPA’s budget by 25 percent, as well as eliminate 1 in 5 agency employees. And The Washington Post reports that the EPA’s scientific research arm, the Office of Research and Development, could see up to a 42 percent cut. Last year, the agency’s budget totaled nearly \$8.2 billion.

“We’re talking about 42 percent of our scientists potentially losing their jobs this year,” McCarthy added. “I mean, this is not just disagreeing with the science and wanting to deny it. This is telling half of the scientists that they’re no longer welcome in the premiere environmental science agency in the world, the Environmental Protection Agency.”

Asked if she thought Pruitt would do the right thing for EPA, Whitman said she was “skeptical.”

“I hope fervently that the kind of message that the administrator gave the other day to the people who work at the agency, the career staff, where it was a pretty balanced approach, that’s going to

be more the tone we're going to see — more respect for the agency and its mission, what it does," she said.

"The agency is about protecting human health and the environment. And we don't want to lose that in an effort to ensure that the regulations in place are the ones the administration wants."

What Whitman and McCarthy had to say Wednesday came as little surprise. Both have previously spoken out against what is unfolding at EPA.

"[Pruitt] obviously doesn't care much for the agency or any of the regulations it has promulgated," Whitman said of the former Oklahoma attorney general in December. "He doesn't believe in climate change; he wants to roll back the Clean Power Plan."

In a statement earlier Wednesday to The Washington Post, McCarthy blasted the White House's budget proposal, saying it "ignores" not only "the need to invest in science and to implement the law," but also "the lessons of history that led to EPA's creation 46 years ago."

A gutting of the EPA will almost certainly get the endorsement of the agency's top boss; Pruitt sued the EPA 13 times as Oklahoma's attorney general.

Over the weekend, Pruitt said those calling for the abolishment of the EPA were "justified" in their beliefs. He credited the agency's actions under the Obama administration for such outrage.

"I think people across this country look at the EPA much as they look at the IRS," Pruitt said during his appearance at the Conservative Political Action Conference in Maryland. "There are going to be some big steps taken to address some of those regulations."

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

To: So, Katherine[so.katherine@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17[Actadmmccabe.catherine17@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]
From: McGonagle, Kevin
Sent: Thur 3/2/2017 8:58:00 PM
Subject: RE: OPA Clips 3/2/17

Below: InsideEPA, Morning Consult, New York Times, CBS News Chicago, American Ag Radio Network, Washington Examiner, The New Republic, Washington Post, E&E News (2), The Daily Caller, Agri-Pulse, Politico, CNN, The Hill, Bloomberg BNA (4), Reuters, Washington Post, E&E News (2), Politico (2), Breitbart, Huffington Post (3/1)

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InsideEPA

<https://insideepa.com/daily-news/pruitt-enlists-mayors-bolster-budget-defense-priority-epa-programs>

Pruitt Enlists Mayors To Bolster Budget Defense for Priority EPA Programs

By Abby Smith 3/2/17

EPA Administrator Scott Pruitt is asking the nation's mayors to provide him with “success stories” that would help bolster his efforts to protect his priorities -- including water infrastructure funds, Superfund cleanups, brownfields redevelopment and attainment of air quality standards -- from White House plans to slash the agency's budget.

“I want to be able to share those [success stories] with the White House. I want to be able to share that the investment in that brownfields program needs to be enhanced and strengthened because it literally goes to job creation, benefit to the community and environmental benefits, as well,” Pruitt told mayors gathered in Washington, D.C., for the U.S. Conference of Mayors winter leadership meeting March 2.

His call to the mayors to provide examples of successful EPA spending appears intended to bolster his efforts to defend programs that he plans to prioritize, given his recent complaints that

his short time in office -- his first full day on the job was Feb. 21 -- and the limited time the White House Office of Management & Budget (OMB) provided agencies to respond to its proposals was already hampering his efforts.

“What's difficult having only been there a week, is to have these kinds of recommendations made and then look at our priorities and say, 'You know what, we've got to make sure that we look at these programs,’” Pruitt told E&E News earlier this week.

“What's important for us is to educate OMB on what the priorities of the agency are, from water infrastructure to Superfund, providing some of those tangible benefits to our citizens, while at the same time making sure that we reallocate, re-prioritize in our agency to do regulatory reform to get back within the bounds of Congress.”

Pruitt's remarks to the mayors came one day after reports that the Trump White House plans to propose an almost 25 percent cut to the agency's budget in fiscal year 2018, including a 20 percent cut to the agency's workforce and a 30 percent cut to grants, including popular state grants. Several of those grant programs are also proposed for elimination, including brownfields and diesel emissions grants, as well as funds for implementing the Clean Power Plan.

The cuts were detailed in a note from the National Association of Clean Air Agencies (NACAA), a group that represents state and local air regulators, to its members providing details of the “pass back” EPA received from OMB earlier this week that launched internal talks on the agency's budget.

According to the NACAA note, agencies, including EPA, had one day to appeal pass back recommendations.

Since the details of the plan emerged, Pruitt has indicated that the White House plan is still preliminary and subject to negotiation with both OMB and Congress, even as he has emphasized that he plans to protect his priorities.

But the expected EPA budget cuts have drawn significant concern from state officials, who fear it would curtail federal funds they receive to implement core programs even as Pruitt has promised to provide them with sufficient resources as they work to take on greater responsibility implementing federal requirements.

A group of state officials in a March 1 letter called for the administration to increase state and tribal assistance grants (STAG), categorical grants that states and tribes use to support day-to-day implementation of federal environmental laws.

State Grants

But an EPA official says Pruitt and other officials still have work to do to address concerns that OMB's proposed budget plan seeks to cut categorical grants that states view as essential to their continued ability to implement core federal air and water programs.

“That is the topic that we're going to have to get into and is being discussed inside the EPA right now internally, how we work on air grants,” the official told reporters after Pruitt's remarks.

The official noted that in Pruitt's address to the mayors, he had prioritized attainment of federal air and water quality standards, acknowledging that states will need EPA grants if that is to happen. Pruitt “talked about attainment, and attainment's important because obviously the grants, including water grants in some cases, are linked to whether or not places, cities, municipalities, states have achieved attainment. So the two go hand-in-hand.” Attaining air quality standards is also mandated by Congress.

In his remarks to the mayors, Pruitt reiterated his earlier comments that he planned to aggressively defend his priorities. “I want you to know that with the White House and also with Congress, I came to convey a message that the brownfields program, the Superfund program, the water infrastructure [like] the [Water Infrastructure Finance and Innovation Act] grants [and] state revolving funds are essential to protect,” he said.

And he suggested that state and local officials across the country could provide a host of “success stories” about how EPA funds have helped improve water infrastructure. “States across the country, cities and towns across the country, have relied upon those grants for a long, long time to improve water infrastructure,” he said.

Pruitt also emphasized that water infrastructure could benefit from the broader infrastructure package the Trump administration is developing, adding that he was asked by President Donald Trump to be part of an administration-wide infrastructure team.

He told the mayors he and members of the agency had prepared recommendations about how to “include water infrastructure in the discussion with roads and bridges,” and he would be presenting them during an afternoon meeting at the White House March 2.

A group of Mississippi River mayors is also urging the Trump White House and Congress to bolster water infrastructure funds, possibly as part of an upcoming infrastructure plan.

'Pleasantly Surprised'

Pruitt's remarks were generally well-received by the mayors, who applauded his comments committing to support the Superfund and brownfields programs and to take water infrastructure recommendations to the White House.

“I think a lot of the mayors were pleasantly surprised at his commitment to brownfields and water infrastructure,” said Mayor James Brainard of Carmel, IN, on the sidelines of the meeting.

Brainard -- a Republican who has championed climate action -- told reporters that he was “pleased” to hear Pruitt say he needed mayors' help “to show examples to people to . . . 'enhance' brownfields funding.” But he also said he believes Pruitt should defend many of the climate and environmental justice programs that are slated to be cut under Trump's budget proposal.

“I was encouraged to hear that he has picked some” priorities, Brainard said of Pruitt. “He has priorities, and he's at least focused on those, and we'll certainly help him with those, and hopefully have a discussion about the others.”

Brainard suggested that beyond bringing Pruitt examples of “success stories” related to Superfund and brownfields programs, local leaders can also tout their achievements on climate and clean energy.

He said he wants to share those examples with Pruitt, noting that Carmel is an 80 percent Republican city that voted for Trump, “and yet I have four pages of environmental initiatives” and the city council passed a resolution last week setting a goal of carbon neutrality by 2050.

“I think the administration needs to see that,” Brainard said, adding later that mayors and other leaders have to “continue to persuade, use examples and look for alternative paths to get to carbon reductions other than talking about climate science.”

Morning Consult

<https://morningconsult.com/2017/03/02/pruitt-prioritize-state-environmental-programs-budget/>

Pruitt to Prioritize State Environmental Programs in Budget

By Jack Fitzpatrick 3/2/17

Environmental Protection Agency Administrator Scott Pruitt said he would emphasize the importance of water infrastructure and environmental clean-up grant and loan programs as the White House prepares a slimmed-down budget for the agency.

His comments appear to confirm reports that the Trump administration would seek to cut more funds from EPA programs administered at the federal level, including climate programs, while continuing to support grant and loan programs administered by state and tribal governments.

Pruitt also said he would meet with White House officials Thursday afternoon to talk about environmental projects that could go in an eventual infrastructure bill, saying he would promote funding for water infrastructure.

“I want you to know that with the White House and also with Congress, I am communicating a message that the Brownfields program, the Superfund program, water infrastructure, WIFIA [Water Infrastructure Finance and Innovation Act] grants, [and] state revolving funds are essential to protect,” Pruitt said at a press conference at the U.S. Conference of Mayors Thursday morning.

The agency’s Superfund program uses a trust fund to support major hazardous waste clean-up projects, while the other programs Pruitt mentioned send grants to state governments. The

Brownfields program offers grants to improve properties that are underutilized because of real or perceived contamination. The WIFIA program and state revolving funds provide loans for water infrastructure.

Pruitt said the budget discussion is “just starting” and that he knew there were “some concerns about these grant programs that EPA has been a part of historically.”

E&E News reported Monday that the White House is pushing for a 24 percent cut to the EPA’s budget.

Myron Ebell, who led the EPA’s transition team, said Monday that 24 percent “sounds a little steep.” But regardless of the size of the budget cuts, President Donald Trump wants to preserve “pass-through” grants to states, which make up nearly half the agency’s budget, Ebell said in an interview. Preserving state programs while cutting nearly a quarter of the overall budget would equate to slashing nearly half of the money for the EPA’s own activities.

To accomplish such drastic cuts, EPA would have to “cut some regional offices,” cut “all grants to environmental groups for environmental education and other purposes,” and “pretty much zero out the climate programs, which Trump is in favor of anyway,” Ebell said.

New York Times

https://www.nytimes.com/2017/03/02/us/politics/climate-change-trump.html?_r=0

Top Trump Advisers Are Split on Paris Agreement on Climate Change

By Coral Davenport 3/2/17

WASHINGTON — The White House is fiercely divided over President Trump’s campaign promise to “cancel” the Paris agreement, the 2015 accord that binds nearly every country to curb global warming, with more moderate voices maintaining that he should stick with the agreement despite his campaign pledge.

Stephen K. Bannon, Mr. Trump’s senior adviser, is pressing the president to officially pull the United States from the landmark accord, but he is clashing with Secretary of State Rex Tillerson and the president’s daughter Ivanka Trump, who fear the move could have broad and damaging diplomatic ramifications.

Mr. Trump vowed on the campaign trail to tear up President Barack Obama’s global warming policies, and on the home front he is moving aggressively to meet those pledges with deep cuts to the Environmental Protection Agency and a new E.P.A. administrator, Scott Pruitt, who is a skeptic of climate science.

Next week, Mr. Trump plans to sign an executive order directing Mr. Pruitt to start the lengthy

legal process of unwinding Mr. Obama's E.P.A. regulations for cutting greenhouse pollution from coal-fired power plants. Those regulations are the linchpin of the last administration's program to meet the nation's obligations to reduce climate emissions under the Paris agreement.

While the president cannot, as Mr. Trump suggested, unilaterally undo a 194-nation accord that has already been legally ratified, he could initiate the four-year process to withdraw the world's largest economy and second-largest climate polluter from the first worldwide deal to tackle global warming. Such a move would rend a global deal that has been hailed as historic, throwing into question the fate of global climate policy and, diplomats say, the credibility of the United States.

But it would also demonstrate to his supporters that Mr. Trump is a man of his word, putting American coal interests ahead of a global deal forged by Mr. Obama.

On one side of that debate is Mr. Bannon, who as a former chief executive of Breitbart News published countless articles denouncing climate change as a hoax, and who has vowed to push Mr. Trump to transform all his major campaign promises into policy actions.

On the other side are Ms. Trump, Mr. Tillerson, and a slew of foreign policy advisers and career diplomats who argue that the fallout of withdrawing from the accord could be severe, undercutting the United States' credibility on other foreign policy issues and damaging relations with key allies.

Although Ms. Trump has not spoken out publicly for action to combat climate change, proponents and opponents of such action see her as an ally. Former Vice President Al Gore met with her during the Trump transition, and was ushered in by the "first daughter" to see the president-elect. The actor and activist Leonardo DiCaprio even slipped her a DVD copy of his climate-change documentary.

"President Trump Must Not Wobble on Climate Change — No Matter What Ivanka Says ...," blared a Breitbart post on Monday written by James Delingpole, who is close to Mr. Bannon and who leads the website's coverage of climate-change policy.

Mr. Trump wants to make a decision by next week, say people familiar with the White House's debate on the climate pact, in order to announce his executive order to undo Mr. Obama's climate regulations in conjunction with his plans for the Paris deal.

According to leaked budget documents, the president will also propose killing off nearly two dozen E.P.A. programs, including the Obama-era Clean Power Program, climate partnership programs with local governments, Energy Star grants to encourage efficiency research in consumer products and climate-change research. Those would be part of a broader budget submission that would cut the E.P.A.'s funding by 25 percent, to around \$6.1 billion from \$8.2 billion, and its staff by 20 percent.

"If the goal is to fulfill the president's campaign promises and implement his agenda, there is no value in staying in Paris," said Thomas J. Pyle, an adviser to the Trump transition and the

president of the Institute for Energy Research, an organization partly funded by the billionaire brothers Charles G. and David H. Koch, who have worked for years to undermine climate-change policies.

Mr. Trump has cited Mr. Pyle's group as being influential in shaping his energy and climate proposals, including his campaign pledge to withdraw from the Paris deal.

"The two greatest obstacles to a Clexit (climate exit from U.N. Paris agreement) are probably Ivanka and Tillerson," wrote Marc Morano, a former Republican Senate staff member who now runs Climate Depot, a fossil-fuel-industry-funded website that promotes the denial of climate science, in an email. "Tillerson with his 'seat at the table' views could be biggest proponent of not withdrawing the U.S. from the agreement."

Mr. Tillerson is a former chief executive of Exxon Mobil, which, like many major global corporations, endorsed the Paris agreement. While his former company once denied human-caused climate change, it has more recently publicly acknowledged the threat posed by burning oil and supported proposals to tax carbon dioxide pollution.

Asked during his Senate confirmation hearing about the Paris accord, Mr. Tillerson said, "It's important that the U.S. maintains its seat at the table about how to address the threat of climate change, which does require a global response."

Under the Paris agreement, every nation has formally submitted plans detailing how it expects to lower its planet-warming pollution. The Obama administration pledged that the United States would reduce its carbon pollution about 26 percent from 2005 levels by 2025. However, that pledge depends on enactment of Mr. Obama's E.P.A. regulations on coal-fired power plants, which Mr. Trump and Mr. Pruitt intend to substantially weaken or eliminate.

But under the Paris deal, those numerical targets are not legally binding, and there are no sanctions for failing to meet them. The only legal requirements of the deal are that countries publicly put forth their emissions reductions targets, and later put forth reports verifying how they are meeting the targets. It would be possible for the Trump administration to stay in the deal and submit a less ambitious target.

Even senior Republican voices in the foreign policy debate have said it may be wiser to stay in but keep a low profile.

"There's really no obligation," Senator Bob Corker, Republican of Tennessee and chairman of the Foreign Relations Committee, said in an interview. "It doesn't require us to do anything. I think they may take a little time to assess whether pulling out makes sense now."

Foreign policy experts say withdrawing from Paris would have far greater diplomatic consequences than President George W. Bush's withdrawal from the world's first global climate-change accord, the 1997 Kyoto Protocol.

"I think it would be a major mistake, even a historic mistake, to disavow the Paris deal," said R.

Nicholas Burns, a retired career diplomat and under secretary of state under Mr. Bush.

“In international politics, trust, reliability and keeping your commitments — that’s a big part of how other countries view our country,” Mr. Burns said. “I can’t think of an issue, except perhaps NATO, where if the U.S. simply walks away, it would have such a major negative impact on how we are seen.”

The Paris deal is more consequential than Kyoto. Unlike that pact, which required action only from developed economies, the Paris agreement includes commitments from every nation, rich and poor, to cut emissions, including China and India, the world’s largest and third-largest polluters. Also, the science of climate change has become far more certain and the impact more visible in the 20 years since Kyoto. Each of the last three years has surpassed the previous one as the hottest on record.

Some of the United States’ closest allies are urging the Trump administration not to pull out. In a letter to Mr. Trump after he won the election, Chancellor Angela Merkel of Germany wrote, “Partnership with the United States is and will remain a keystone of German foreign policy, especially so that we can tackle the great challenges of our time.” They include, she wrote, “working to develop farsighted climate policy.”

As Mr. Trump and his advisers weigh their Paris options, one proposal is gaining traction, according to participants in the debate: Mr. Trump could declare that the Paris agreement is a treaty that requires ratification by the Senate. The pact was designed not to have the legal force of a treaty specifically so that it would not have to go before the United States Senate, which would have assuredly failed to ratify it.

“If there are camps forming in the White House, then let the people decide, the elected representatives,” Mr. Pyle said. “Let’s put the question to them.”

Proponents of that idea say it could shift some of the weight of the decision from Mr. Trump to Senator Mitch McConnell of Kentucky, the majority leader, at least in the eyes of some foreign diplomats, and of the president’s daughter.

CBS News Chicago

<http://chicago.cbslocal.com/2017/03/02/epa-employees-protest-trump-administrations-proposed-budget-cuts/>

EPA Employees Protest Trump Administration’s Proposed Budget Cuts

3/2/17 2:22 PM

CHICAGO (CBS) — A few dozen Chicago-based employees of the Environmental Protection Agency demonstrated Thursday afternoon at Federal Plaza, upset over proposed budget cuts by

the Trump administration.

President Trump was the target of the EPA employee protest. WBBM's Steve Miller reports.

EPA Attorney Nicole Cantello, who's also a union leader, said the administration's proposed budget would prevent EPA from responding properly to a scenario like East Chicago – where a cleanup is going on after high lead levels were found.

“EPA – this region – responded with 30 to 60 people that worked full-time on that site for a certain amount of time. If you take a 25 percent cut of the people in this region, we won't be able to respond like that.”

Supporting the EPA workers: some Chicago Alderman, like Raymond Lopez of the 15th Ward on the South Side – who worked President Trump into his remarks.

“We're not going backwards. He can go back.”

Rally organizers urged EPA employees to write their representatives and oppose any budget cuts.

American Ag Radio Network

<http://americanagnetwork.com/2017/03/epa-proposed-revocation-of-chlorpyrifos-threatens-growers-livelihoods/>

EPA Proposed Revocation of Chlorpyrifos Threatens Growers' Livelihoods

By Rusty Halvorson 3/1/17

In the months since the U.S. Environmental Protection Agency announced a proposal to revoke U.S. food tolerances for chlorpyrifos, growers, university Extension specialists and scientists have united to voice overwhelming support of the widely used insecticide. Since first registered in the United States in 1965, chlorpyrifos has played an important role in pest management efforts worldwide.

With the official EPA comment period concluding Jan. 17, 2017, and a final EPA decision forthcoming very soon, the future of chlorpyrifos – chemistry that is registered in nearly 100 countries for use on more than 50 different crops – hangs in the balance.

“For more than half a century, growers around the globe have relied on chlorpyrifos because of its outstanding control and low cost, and its role as an important tool in Integrated Pest Management programs,” says Phil Jost, portfolio marketing leader, U.S. crop protection insecticides for Dow AgroSciences. “Without chlorpyrifos to control many yield- and profit-robbing pests, growers face limited or, in some cases, no viable alternatives.”

Dow AgroSciences is concerned about the far-reaching impact of EPA's proposal to revoke U.S. food tolerances for the insecticide. The company is specifically concerned that EPA's assessment of the chemistry lacks scientific rigor and that establishing food tolerance levels based on a nonreplicable epidemiology study sets an untenable precedent for current and future registrations.

EPA's own Scientific Advisory Panel, along with the U.S. Department of Agriculture and other experts, have voiced concern that EPA has attempted to regulate chlorpyrifos based on a single unreplicated and unvalidated epidemiology study. In contrast, however, an extensive database of reliable and well-replicated data — developed based on sound scientific standards for chlorpyrifos — demonstrates that authorized uses of chlorpyrifos provide wide margins of protection for human health and safety when used as directed.

For growers like **Allen Tucker, a sugarbeet producer from St. Thomas, North Dakota**, chlorpyrifos is critical to protecting his crops from devastating pests and his operation's sustainability. Tucker farms more than 4,000 acres — 700 dedicated to sugarbeets — and chairs the Sugarbeet Research and Education Board of Minnesota and North Dakota, an expert source of information on the sugarbeet industry.

"There are a limited number of products that can control sugarbeet root maggot effectively," Tucker says. "With chlorpyrifos as a tool, we can apply it as a rescue treatment, if necessary, later in the growing season. Chlorpyrifos is our last line of defense against sugarbeet root maggot outbreaks. My farming operation would suffer greatly if this invaluable tool were to be taken off the market."

John Weinand, a diversified grower from west-central North Dakota, echoes Tucker's sentiment. Weinand grows dry pea, winter and durum wheat, corn, sunflowers, barley and canola, and relies heavily on chlorpyrifos. He is also a member of the National Association of Wheat Growers' Environmental and Renewable Resources Committee.

"We rely heavily on chlorpyrifos to control orange blossom wheat midge," Weinand says. "We turn to the expertise of our land grant university researchers for many agronomic practices and chlorpyrifos is their recommended 'treatment of choice' for midge. After using it, we nearly doubled our yield where there was a treatable infestation."

"Anytime you take tools out of the toolbox and throw them away, it's a loss for our operation," Weinand says. "The recommendation we get from our university is based on solid science. It's not random, and we feel EPA needs to understand that."

Tucker says that without chlorpyrifos as an effective pest control tool, he would be forced to use other, less effective insecticides far more aggressively to keep sugarbeet root maggot pest outbreaks at bay.

"We would have to apply other insecticides before knowing the severity of an outbreak," Tucker says. "The net result would likely be an increased application of insecticide active ingredients at a greater cost. From an environmental standpoint, it benefits no one if we have to apply extra

active ingredients of alternative insecticides to overcome insect pressure.”

“We remain optimistic that once EPA considers all of the scientific evidence and grower concerns, this product will continue to be available,” says Jost. “The decision carries huge implications, not only for food production and grower livelihoods, but just as importantly, for environmental sustainability, efforts to manage insect resistance and grower IPM programs.”

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-looks-to-save-key-epa-grant-programs/article/2616268>

Pruitt looks to save key EPA grant programs

By John Siciliano 3/2/17 1:18 PM

Environment Protection Agency chief Scott Pruitt said Thursday he is trying to save the agency's grant programs from being slashed as the EPA braces for major cuts under President Trump's budget proposal.

Pruitt discussed his budget priorities for the agency at an annual conference of mayors Thursday in Washington. State and local governments rely on many of the grant programs he supports to improve water infrastructure and fund cleanups of waste that can lead to economic revitalization.

"I want you to know that with the White House and also with Congress, I am communicating a message that the brownfields program, the Superfund program, water infrastructure ... are essential to protect," Pruitt said. He added that the budget discussions are "just starting" in Congress, but there are already "some concerns about some of these grant programs that EPA has been a part of, historically," Pruitt said.

Pruitt's reassuring comments to local leaders come as the Trump administration is reportedly looking to slash EPA's budget by at least 25 percent. The main target of the Trump administration's cuts appears to be its climate change programs, but it is not clear how far the budget cuts would go.

Myron Ebell, the former head of Trump's EPA transition team, told the Washington Examiner in recent weeks that the grant programs likely would be spared in the budget because of how they will factor into Trump's infrastructure plan.

Trump "promised to undo all of Obama's climate agenda, including the greenhouse gas emissions rules for power plants; the [Waters of the U.S. rule]; and other job-killing rules," Ebell said in an email. "On the other hand, he supports the pass-through grants to the states for water and other environmental infrastructure projects."

The grants make up about half of the EPA's \$8 billion budget, Ebell said. "So I expect this funding to survive or even increase as significant budget cuts are made at the federal level."

Pruitt said Thursday that he supports EPA's many clean-up programs such as the Superfund and the brownfields, which are geared to revitalizing abandoned industrial sites.

"I want to be able to share that the investment with the brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits to the community and environmental benefits, as well," Pruitt told the mayors.

Trump is reportedly planning to cut EPA's \$8 billion budget by \$2 billion, which has EPA employees bracing for layoffs. Trump is expected to issue an executive order next week to scuttle EPA's Clean Power Plan, the centerpiece of former President Barack Obama's climate change agenda.

Trump is also expected to issue a separate order ending Obama's moratorium on coal leases at the Interior Department, now that Interior Secretary Ryan Zinke has been confirmed.

The New Republic

<https://newrepublic.com/minutes/141066/scott-pruitt-like-relax-epa-cuts>

Scott Pruitt would like you to relax about the EPA cuts.

By Emily Atkin 3/2/17

In the wake of news that President Donald Trump's budget slashes the Environmental Protection Agency by 25 percent, the department's new administrator called for calm and insisted he's not totally on board with the administration's plan. "Civility in our discourse is really, really important," Pruitt, who is wrongly skeptical of man-made climate change and frequently sued the EPA as Oklahoma's attorney general, said at a U.S. Conference of Mayors event in D.C. on Thursday. He implored those around him to "lean on these issues with some level of civility."

Pruitt said he opposes some of Trump's ideas for his agency—specifically Trump's idea to cut a number of popular grant programs for states. Pruitt said he'd like to preserve Brownfields grants, which help states clean up and reuse highly polluted industrial sites. He also cited federal grant programs that rebuild aging drinking water infrastructure, like the \$100 million EPA grant that Flint, Michigan, received last year to improve its corroded pipes. "I want you to know that with the White House and also with Congress, I am communicating a message that the Brownfields Program, the Superfund program, water infrastructure ... are essential to protect," Pruitt said.

Afterward, an EPA spokesperson declined to say if Pruitt opposed any other parts of Trump's reported slash-and-burn budget for the EPA, such as eliminating the Office of Environmental Justice, reducing the workforce from 15,000 to about 12,000, and zeroing out funds for climate

change initiatives and native Alaskan villages.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/02/heres-one-part-of-epa-that-the-agencys-new-leader-wants-to-protect/?utm_term=.f38c792a65b8

Here's one part of the EPA that the agency's new leader wants to protect

By Brady Dennis 3/2/17 12:37 PM

In case there was any question whether President Trump's administration has put a bull's eye on the Environmental Protection Agency, the White House's proposed budget cuts at the agency leave little doubt. Plans reviewed by The Washington Post this week outline a wish list for cutting the agency's staff by one-fifth and eliminating dozens of programs entirely.

But Thursday morning, new EPA Administrator Scott Pruitt — himself a longtime agency critic who has made clear he intends to scale back the EPA's reach — told a group of mayors from around the country that he intends to defend at least some pieces of the EPA.

"Superfund is an area that is absolutely essential," Pruitt told a gathering of the U.S. Conference of Mayors at the Capital Hilton. "The brownfields program, as well."

EPA's Superfund program, which has been around since 1980, is responsible for managing the cleanup of some of the country's most contaminated hazardous waste sites, as well as responding to significant environmental emergencies. There are more than 1,300 Superfund sites around the country, and most past cleanups have been paid for by the parties responsible for polluting. The brownfields program, which began in 1995, involves EPA grants for communities to help clean up and redevelop abandoned industrial sites.

The programs historically have been considered successes and are popular around the country among lawmakers and their constituents. The White House budget proposal this week, however, would shrink EPA grants to states by 30 percent and potentially cut the brownfields funding altogether.

"There's a brownfields in every congressional district," Chris Bollwage, the mayor of Elizabeth, N.J., told Pruitt on Thursday. "It's a program that's worked really well in my city and throughout the nation."

"It's a tremendous success," Pruitt agreed, urging the mayors to send him details of where the program has worked best. "I want to hear from you about those successes. I want to be able to share those with the White House. ... We need stories. We need illustrations about how important the brownfields program is to creating jobs and the environmental benefits that have been achieved."

Pruitt also said Thursday that he intends to advocate for water infrastructure funding as part of a broader infrastructure push by the Trump administration.

“We know when it goes wrong, it goes wrong badly,” Pruitt said, in an apparent reference to the Flint, Mich., water crisis. “We have a water infrastructure issue right now across this country. It’s not just roads and bridges.”

He said he planned to bring up the need for water infrastructure investment at a White House meeting Thursday afternoon.

Pruitt did not address the wave of other deep cuts proposed at the agency.

The White House’s initial proposal would reduce the agency’s staff by one-fifth in the first year — from 15,000 to 12,000 — and would slash the EPA’s budget from \$8.2 billion a year to \$6.1 billion. Grants to states, as well as the agency’s air and water programs, would be cut by nearly a third. The massive Chesapeake Bay cleanup project would receive only \$5 million in the next fiscal year, down from its current \$73 million. The agency’s Office of Research and Development could lose up to 42 percent of its budget. EPA’s environmental justice program could vanish. In total, 38 separate programs would be eliminated entirely.

Congress, of course, would have to approve any cuts, some of which are deeply unpopular among some lawmakers.

But there is little doubt about Trump’s disdain for much of the agency’s work. As a candidate, he vowed to eliminate the EPA “in almost every form,” leaving only “little tidbits” intact. As Oklahoma attorney general since 2010, Pruitt also has been a key EPA adversary, suing the agency more than a dozen times to challenge its legal authority to regulate such things as mercury pollution, smog and carbon emissions from power plants.

E&E News

<http://www.eenews.net/greenwire/2017/03/02/stories/1060050847>

Green success stories critical to budget battle — Pruitt

By Kevin Bogardus and Emily Holden 3/2/17

U.S. EPA Administrator Scott Pruitt pleaded with mayors this morning to share their environmental success stories with his agency.

The newly minted agency chief spoke to the U.S. Conference of Mayors in Washington, stressing that he wants to protect certain EPA programs from budget cuts proposed by President Trump. The White House blueprint would cut EPA's budget by nearly a quarter, or roughly \$2

billion, and lay off 3,000 employees, which would leave several agency initiatives in limbo.

In his talk with mayors, Pruitt cautioned that the budget process was just starting.

"There are some concerns about some of these grant programs that EPA has been a part of historically," Pruitt said. "I want you to know that with the White House and also with Congress, I'm communicating the message that the brownfields program, the Superfund program, water infrastructure ... state revolving funds are essential to protect."

The EPA administrator said mayors have success stories with those cleanup programs such as brownfields and Superfund. They should share those stories with his agency as budget talks commence.

"There are tremendous successes all over the country," Pruitt said. "I want to hear from you about those successes. I want to be able to share those with the White House."

Pruitt said those programs lead to job creation as well as benefits to the community and the environment.

The EPA chief also noted that he has been invited to be part of the president's team on infrastructure and will be heading to the White House this afternoon to discuss the issue.

"We have a water infrastructure issue right now for us in this country," Pruitt said. "I want to hear from you on your needs with respect to water infrastructure."

In his early days as agency head, Pruitt has talked up the importance of clean water and cleanup programs. Today, he also discussed working with mayors to take down air pollution, noting there are still several nonattainment areas in the country that do not meet national air quality standards.

"I look forward to partnering with you in the future," Pruitt said.

State agencies stand ready to work with Pruitt at EPA.

"Our members realize this is the beginning of the conversation for FY2018 budget, and will look to engage with U.S. EPA, Congress and the White House to highlight recent success stories and the need for cooperative approaches to core Clean Air Act responsibilities," said Clint Woods, executive director of the Association of Air Pollution Control Agencies, in a statement to E&E News.

Nevertheless, Trump's budget cuts proposed for EPA have been meeting pushback on Capitol Hill as well as from agency employees.

Sen. Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee, said earlier this week that the proposed budget cuts "will put people across this country at risk for illnesses or even premature death." In addition, EPA Region 5 employees, based in Chicago, were slated to protest this afternoon against the president's budget plan.

Some feel, however, that the Trump administration could change course, given the budget process has only just begun.

Jim Brainard, the Republican mayor of Carmel, Ind., and an outspoken supporter of fighting climate change, said he's "cautiously optimistic" that the president's views on climate change and environmental protection could change.

"Like so many things, the president started out, he hadn't been in government, he hadn't studied a lot of the issues," Brainard said. "We've seen him do 180s on several issues at this point."

He said he's hopeful because the president's daughter Ivanka and son-in-law, Jared Kushner, seem to support the environment. Brainard was also pleased that Pruitt asked for examples of the successful use of EPA funds to clean up brownfields.

"I haven't met a Republican or Democrat yet that wants to drink dirty water or breathe dirty air," Brainard said.

"I think we start to take into the equation the health cost of dirty air, the ozone issue that the administrator mentioned, there may be an opportunity to change minds at the White House."

Brainard said he thinks the administration is wrongfully looking to slash agency funds in order to reduce taxes and boost defense spending.

"I think they're looking to support this proposal, which may not have been well thought out, to cut taxes. They've got to look at every function of government and then combine that with the increase they want to give to the U.S. military," Brainard said. "I'm not sure the math works even in the best of cases."

E&E News

<http://www.eenews.net/greenwire/2017/03/02/stories/1060050820>

Wetlands scientists defend WOTUS with letter, brief

By Ariel Wittenberg 3/2/17

Seven scientific societies are speaking out against President Trump's executive order targeting the contentious Clean Water Rule.

Representing more than 200,000 members total, the Society of Wetland Scientists, Ecological Society of America, American Institute of Biological Scientists, American Fisheries Society, Society for Ecological Restoration, Society for Freshwater Science and Phycological Society of America wrote a letter arguing in favor of the regulation.

"As non-profit organizations, we support and foster sound science, education, restoration and management of wetlands and other aquatic resources," the letter says, adding that the regulation was written "using the best available science."

Finalized by the Obama administration in May 2015, the Clean Water Rule, also known as the Waters of the U.S. rule, or WOTUS, caught the ire of farmers, land developers and energy companies.

The law was stayed in a federal court following multiple legal challenges, including one brought by now-U.S. EPA Administrator Scott Pruitt when he was Oklahoma attorney general.

On Tuesday, President Trump signed an executive order directing EPA and the Army Corps of Engineers to review and possibly rescind or replace the regulation (E&E News PM, Feb. 28).

The letter from the societies accompanies an amicus brief they filed in the 6th U.S. Circuit Court of Appeals to support a brief filed by the Obama administration defending the regulation earlier this year. That case has been stayed pending a Supreme Court review of whether it has jurisdiction over the regulation (Greenwire, Jan. 13).

In their letter, the organizations describe the ecological importance of wetlands, which can remove otherwise harmful nutrient pollution from water, as well as the benefits wetlands provide to humans.

"They store water, and thus are a source of water during times of drought," the letter says. "Many wetlands soak up runoff and floodwaters, which reduces peak flood-flows and avoids costly flood damage."

The Daily Caller

<http://dailycaller.com/2017/03/02/trump-orders-epa-to-zero-out-global-warming-programs/>

Trump Orders EPA To 'Zero Out' Global Warming Programs

By Michael Bastasch 3/2/17 10:08 AM

The White House is pushing for significant cuts to EPA programs and staff levels, giving a glimpse of how the Trump administration plans on devolving more control to the states.

The budget plan sent from the Office of Management and Budget (OMB) to EPA leadership calls for eliminating dozens of programs, including at least 16 that have to do with global warming and implementing former President Barack Obama's climate agenda.

OMB also requested a 30 percent cut in grants to states and a 20 percent reduction in EPA's

workforce through buy-outs and layoffs. In total, President Donald Trump is calling for a roughly 25 percent cut to EPA's budget — about \$2 billion.

The cuts are laid out in a letter sent by William Becker, the executive director of the National Association of Clean Air Agencies (NACAA), to his group's member state and local regulators. Becker said NACAA received the "pass back" budget information sent from OMB to EPA Monday, according to InsideEPA.

Here are all the programs NACAA said OMB wants "zeroed out":

Alaska Native Villages Beach and Fish programs Brownfield projects

Clean Power Plan implementation

Climate Voluntary partnership programs < there are 14 separate ones

Diesel Emissions Reduction Act Endocrine grants Energy star grants

Environmental education Environmental justice

Geographical programs for lake [Champlain], L.I. Sound, S.F. Bay and South Florida

Global Change Research Mexico Border grants Multi-purpose grants

Office of Public Engagement Radon Star Research grants

Small minority businesses State indoor radon Targeted air shed grants

U.S. Mexico Border Water Sense

Democrats and environmentalists have opposed Trump's budget cuts, and EPA union leaders are hemming and hawing about cutting staffing levels. Even some Republicans aren't on board with cutting so much from EPA's budget.

"They are operating at 1989 staffing levels. So you really want to be sure you are not cutting the meat and muscle with the fat," Oklahoma Republican Rep. Tom Cole, who is on the House Committee on Appropriations, told Inside EPA.

"There's not that much in the EPA, for crying out loud," California Republican Rep. Mike Thompson told The Washington Post. Thompson formerly chaired the appropriations committee's subcommittee dealing with EPA.

What's unsurprising is Trump wants to get rid of more than a dozen global warming programs at EPA, including funding to implement the Clean Power Plan (CPP)

Trump promised to repeal Obama's "Climate Action Plan" — the CPP is the linchpin of the former president's climate agenda. The CPP limits carbon dioxide emissions from new and existing power plants.

EPA Administrator Scott Pruitt helped lead a coalition of 28 states to overturn the rule while he was attorney general of Oklahoma. Trump is preparing to sign an executive order to rescind the CPP, so it's not surprising they'd cut funding for its implementation.

WaPo reported EPA's "Office of Research and Development could lose up to 42 percent of its budget, according to an individual apprised of the administration's plans."

The budget plan "eliminates funding altogether for the office's 'contribution to the U.S. Global Change Research Program,'" according to WaPo.

One area of concern, however, is the reduction in state and tribal grants for infrastructure and environmental clean-up. The Environmental Council of the States (ECS) sent a letter to EPA and OMB urging them not to cut those programs.

ECS wrote that "cuts to [state and tribal] categorical grants, or to EPA programs operated by states, will have profound impacts on states' ability to implement the core environmental programs as expected by our citizens."

More than 90 percent of EPA programs are carried out by state environmental regulators. That's something that concerns Pruitt, who promised to push back against OMB and preserve grants to states.

"I am concerned about the grants that have been targeted, particularly around water infrastructure, and those very important state revolving funds," Pruitt told E&E News Tuesday.

"What's important for us is to educate OMB on what the priorities of the agency are, from water infrastructure to Superfund, providing some of those tangible benefits to our citizens," Pruitt said, "while at the same time making sure that we reallocate, re-prioritize in our agency to do regulatory reform to get back within the bounds of Congress."

Agri-Pulse

<https://www.agri-pulse.com/articles/8981-pruitt-epa-rewrite-will-limit-reach-of-wotus-rule>

Pruitt: EPA rewrite will limit reach of WOTUS rule

By Philip Brasher 3/1/17

WASHINGTON, March 1, 2017 - The EPA will write a new definition of "waters of the United

States” that is less expansive than the Obama administration’s rule that the agency is withdrawing, EPA Administrator Scott Pruitt said today in an exclusive Agri-Pulse interview.

Pruitt declined to estimate how long it would take for the agency to write a new WOTUS rule, which spells out what wetlands, streams, ditches and other land features are regulated by the Clean Water Act.

But the Trump administration is shifting away from using a legal approach followed by the Obama rule that appeared to extend the law’s jurisdiction to some wetlands and other areas that were not considered regulated before.

The Obama rule “defined waters of the United States so broadly ... that there really weren’t any boundaries between federal and state jurisdiction,” said Pruitt, who as Oklahoma’s attorney general filed one of several lawsuits against the rule.

“Federal jurisdiction usurped and displaced state jurisdiction. So that needs to be fixed. We need regulatory certainty around that, so that’s what we’re going to seek to achieve.”

Pruitt, who is in his second week on the job, also said that he wanted to accelerate the approval process for pesticides and industrial chemicals and was seeking to protect from spending cuts EPA’s funding programs for water infrastructure.

“We’re already in discussions on how to” speed the approval process for pesticides and chemicals, he said. “It’s absolutely a commitment that I’m seeking to establish,” he said.

The White House is planning deep cuts in non-defense discretionary spending at EPA and across the government. According to reports, the White House may propose slashing EPA’s \$8 billion budget by 24 percent alone. Pruitt said it was too soon to say what areas at his agency would be reduced. The state and tribal grant programs alone that he wants to protect account for 42 percent of EPA’s total budget.

In a White House ceremony with President Trump on Tuesday, Pruitt signed an advance notice of proposed rule-making (ANPR) that starts the process of replacing the Obama administration’s WOTUS rule.

The new rule will be developed in conjunction with the Army Corps of Engineers, which shares responsibility for enforcing the Clean Water Act. The new administration wants to limit the law’s jurisdiction to how it was interpreted by the late Justice Antonin Scalia in the Supreme Court’s 2006 Rapanos decision. Scalia said the law grants jurisdiction only over “relatively permanent bodies of water.”

The Obama administration had been adhering to a separate opinion written by Justice Anthony Kennedy that said wetlands and other water bodies with a “significant nexus” to navigable waters also were subject to jurisdiction under the water law. Scalia’s opinion was signed by the court’s other three conservative justices at the time. Kennedy sided with them in the outcome of the case but wrote his separate opinion.

Pruitt said Kennedy's "significant nexus" terminology entailed a subjective approach to defining federal jurisdiction. It "provided no objective criteria. It's a case-by-case review. That's the poorest form of rule-making. Rule-making and regulations ought to provide a framework ... for people to make decisions, allocate resources and know what's expected of them," he said.

So, the new rule will be less expansive than the Obama rule? "Yes, yes," he replied.

Obama's EPA "so expanded jurisdiction of the Clean Water Act that it just made it a statute like Congress never intended it to be. They never intended the EPA to have ... jurisdiction over puddles and dry creek beds across the country," he said.

"That has to be fixed going forward, and that means the Kennedy definition is something that doesn't provide" the necessary clarity, he said.

The Obama rule included language for making case-by-case determinations of whether streams or wetlands would be deemed tributaries of a navigable waterway. "Significant nexus" was broadly defined in the rule as meaning a wetland or other water body that "significantly affects the chemical, physical, or biological integrity" of a navigable waterway. A wide variety of wetland functions could have met the definition, ranging from sediment trapping to the presence of waterfowl.

Environmentalists dispute the Trump administration's criticism of the rule. The rule was "grounded in science and law" and was "developed over many years, after more than 1 million public comments," said Rhea Suh, president of the Natural Resources Defense Council. "We all rely on healthy wetlands to curb flooding, filter pollutants, support fish, waterfowl and wildlife, and feed our rivers and lakes."

Because Pruitt was tied up with the WOTUS issue, he said he was unaware of a kerfuffle that erupted in the renewable fuels industry on Tuesday when rumors surfaced that Trump would issue a "not negotiable" executive order that would change the point of obligation under the Renewable Fuel Standard. Refiners are lobbying EPA to shift the responsibility for meeting biofuel usage mandates to fuel marketers.

Tuesday's reports indicated that the executive order would have changed the point of obligation in exchange for administrative assistance on a Reid vapor Pressure (RVP) waiver that would allow E15 – a gasoline blend with 15 percent ethanol – to be sold during the summer months.

EPA is reviewing comments on the issue. "I've not seen any kind of summary from our office on that process yet," he said.

Politico

<https://www.politicopro.com/energy/story/2017/03/pruitt-hints-at-pushback-on-white-house-proposals-to-slash-water-grants-brownfields-150236>

Pruitt vows to protect water grants, brownfields programs White House wants to slash

By Alex Guillen 3/2/17, 10:54AM

EPA Administrator Scott Pruitt said Thursday that he wants to protect state water grants as well as the brownfield program, despite the White House's proposal to slash state grants and zero out the clean-up program.

Pruitt did not directly discuss the White House's proposed cuts included in the "pass-back" budget sent to EPA this week, but asked a gathering of mayors to help him convince the administration not to seek major cuts to those key programs.

He specifically discussed the twin state revolving funds for drinking water and clean water that make up around \$2 billion of EPA's annual budget, as well as the nascent, and relatively small, Water Infrastructure Finance and Innovation Act program.

"States across the country, cities and town across the country, have relied upon those grants for a long, long time to improve water infrastructure," he told a gathering of the U.S. Conference of Mayors. "We have a water infrastructure issue right now across this country."

Pruitt said he will attend a White House meeting at 1 p.m. to discuss infrastructure issues, and he assured the mayors that he will make sure the administration considers water infrastructure alongside projects like roads and bridges. Pruitt did not say who he would be meeting with, but President Donald Trump and Vice President Mike Pence are both scheduled to be out of town this afternoon.

Those water infrastructure grants are at the "core" of EPA's mission, along with vital clean-up programs such as brownfields and Superfund, Pruitt said. The White House has proposed zeroing out EPA's brownfields program, which cleans up abandoned industrial sites for new uses.

"I want to be able to share [with the White House] that the investment in that brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits for

the community and environmental benefits as well,” Pruitt said.

Pruitt did not mention EPA’s air grants, which are worth hundreds of millions of dollars each year for states to monitor and improve air quality, but he did note that significant swaths of the U.S. do not meet the ozone standard.

An EPA spokesman told reporters after Pruitt’s appearance that Pruitt’s mention of non-attainment issues shows he considers it an important issue. “That’s a topic that we’re going to have to get into and that is being discussed inside the EPA right now internally, how we work on air grants,” the spokesman said.

“There’s a purpose behind his words. He wants to make clear that there are certain things that EPA does that the mayors and their constituencies’ needs, and Congress and their constituencies need and want, that is good for jobs, the economy, the environment,” the spokesman added.

CNN

<http://www.cnn.com/2017/03/02/politics/epa-programs-donald-trump-budget/index.html>

Source reveals EPA programs Trump’s budget could cut

By Rene Marsh and Eli Watkins 3/2/17, 8:00AM

Washington (CNN)A wide slew of Environmental Protection Agency programs could be under the knife to meet President Donald Trump's budget proposal requirements, a source told CNN Wednesday night.

The source spelled out details of an Office of Management and Budget proposal that would cut the EPA's budget by 24% and reduce its staffing by 20%. Some of the EPA's most longstanding and best-known programs are facing potential elimination -- including initiatives aimed at improving water and air quality as well as a number of regulations tasked with reducing the nation's greenhouse gas emissions.

Other programs include the Environmental Justice program, which is meant to help local

communities grapple with environmental concerns, and Global Change Research, a program funded by several agencies, including the EPA, which reports humans' impact on the planet.

The Clean Power Plan, which could also be recommended for cuts, was an initiative by former President Barack Obama meant to reduce carbon emissions from each state. Fourteen separate EPA partnership programs to reduce greenhouse gas emissions could also be on the chopping block.

Also among the programs up for elimination are multi-purpose grants to states and tribes, Energy Star grants, Science to Achieve Results (STAR) graduate fellowships, the Diesel Emissions Reduction Act and initiatives aimed at environmental protections along the US-Mexico border.

Some of the grants recommended for elimination could be matching grants for local projects around the country, the source added.

Ken Cook, the head of the Environmental Working Group, an advocacy and research organization, told CNN in a statement: "The Trump administration has decided fence-line communities across the country, whose residents already bear an outsized burden from pollution, are on their own to take on big polluters."

The EPA did not return a request for comment about the recommendation for budget cuts and staff reduction. CNN has also reached out to the White House for comment.

John Coequet, a campaign director of the progressive environmental group Sierra Club, called the plan ludicrous and said the administration wouldn't be able to get signoff on these cuts from the legislative side. He also argued that zeroing out the Environmental Justice program, which focuses on fair protection from environmental and health hazards for people of all races and incomes, has racial motivations.

"To cut the Environmental Justice program at EPA is just racist," he said. "I can't imagine it's an office that runs up much cost. I can't describe it in any other terms than a move to leave those communities behind. I can't imagine what the justification would be, other than racism."

The sizable cuts won't play well around the country, he added.

"States and Congress won't go for this. They are proposing cutting programs that are connected to jobs in states and programs that address environmental issues," Coequyt said.

The Trump administration has put together a budget calling for an more than \$50 billion increase in defense spending and an equal cut to non-defense spending to make up the balance. Trump's budget director, OMB chief Mick Mulvaney, unveiled the proposal Monday at the White House, and a source told CNN to expect calls for substantial cuts to the State Department and the EPA.

Asked by CNN's Wolf Blitzer on Tuesday about possible cuts, newly-minted EPA administrator Scott Pruitt said it is "very important to protect" grants that are meant to help states with water infrastructure, and he believes the EPA has a "very important role" managing air and water quality across the country. Still, he tried to reassure those concerned about potential budget cuts and layoffs, saying the process is ongoing.

"What we need to realize is this is the beginning of the process, not the end of the process," Pruitt said.

The source who told CNN about the plan pointed out that Pruitt was so far the only permanent political employee at the agency.

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n an interview Tuesday evening with E&E, an environmental policy-focused news outlet, Pruitt said he is concerned about cuts to grants and that he has spoken to Mulvaney about them.

"I am concerned about the grants that have been targeted, particularly around water infrastructure, and those very important state revolving funds," Pruitt said.

Pruitt was previously the Oklahoma attorney general and led lawsuits against the EPA during the Obama administration. Emails released after his confirmation to lead the EPA showed behind-the-scenes collaboration with oil industry officials. Despite his past statements on climate

science, Pruitt said at his confirmation that he did not believe climate change was a "hoax." However, he said climate change needs more debate, even though the overwhelming scientific consensus has said humanity is warming the planet through its release of carbon dioxide and other greenhouse gases.

The Hill

<http://thehill.com/policy/energy-environment/321979-epa-chief-defends-grant-programs-wh-is-eyeing-for-cuts>

EPA chief defends grant programs WH is eyeing for cuts

By Devin Henry 3/2/17 10:31 AM

Environmental Protection Agency (EPA) Administrator Scott Pruitt says he is urging the White House not to cut funding for several grant programs the Trump administration has targeted.

The White House is considering cutting a host of programs as part of an effort to slash the EPA's budget by up to a reported 24 percent.

Among those programs are grants for clean-up work at brownfields industrial sites and other grant programs for states, which Pruitt said Thursday should be protected.

"In this budget discussion that's ongoing with Congress, it's just starting, so there are some concerns about some of these grant programs that EPA has been a part of, historically," Pruitt told a gathering of mayors in Washington on Thursday.

"I want you to know that with the White House and also with Congress, I am communicating a message that the brownfields program, the Superfund program, water infrastructure ... are essential to protect."

Pruitt said funding for the superfund program, which aims to restore contaminated areas of the country, and clean-up at brownfields, former industrial sites too polluted for redevelopment, are priorities for him, and areas of the budget he will aim to protect in spending discussions.

"I want to be able to share that the investment with the brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits to the community and environmental benefits, as well," he said

In a short speech to the mayors, Pruitt did not address other programs that are on the Trump administration's chopping block, including climate change funding.

The reported budget proposal for the EPA — a potential \$2 billion cut to the agency's \$8.1 billion budget — received mixed reviews on Capitol Hill this week. As expected, Democrats lambasted the idea, but some key Republicans were skeptical of it as well.

Pruitt told the mayors he also wants to help localities cut ozone levels to within the limits set by the EPA. He said he will push the White House to include water infrastructure in any construction package the Trump administration might put together this year.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482438&vname=dennotallissues&wsn=49856250

Proposed EPA Cuts Incense State Funding Proponents

By Sylvia Carignan 3/2/17

Environmental activists and former EPA staffers are shocked about proposed deep cuts to the agency's grants to states and skeptical those cuts can survive congressional scrutiny, while some Republicans say reining in EPA's budget is necessary.

Under a proposal from the Office of Management and Budget that circulated March 1 among environmental activists and associations, the Environmental Protection Agency could cut its grants to states by 30 percent in fiscal year 2018, putting about 20 grants on the chopping block.

The cuts are subject to congressional approval. The EPA has one day, March 1, to protest the suggestions.

Bill Becker, executive director of the National Association of Clean Air Agencies, sent an email to members March 1 about the proposed cuts.

The EPA has not verified the information in the email and has not provided responses to Bloomberg BNA's questions about the budget.

The proposal identified at least 22 grants and programs that would not be funded in fiscal year 2018, including those for the agency's Brownfields program, Energy Star, environmental justice, climate change research and health research.

The budget proposal also includes a 20 percent cut in EPA staff. The EPA's overall budget could be cut by 25 percent.

Contradicting Pruitt's Promise

“What people don't understand is a substantial portion of EPA resources go either directly to states, or what's technically called STAG,” the agency's State and Tribal Assistance Grants, said Mathy Stanislaus, former assistant administrator for the EPA's Office of Land and Emergency Management.

Those grants have been the largest part of EPA's budget request in past years. They formed about 40 percent of the agency's fiscal year 2016 and 2017 budgets. About \$3.3 billion of EPA's fiscal year 2017 budget was allocated for STAG.

The grants help states and tribes comply with EPA regulations and fund environmental projects. But the cuts contradict EPA Administrator Scott Pruitt's promise to place more control in states' hands, Becker said.

“We were expecting state grant programs were going to increase,” he told Bloomberg BNA. “Now we just have no idea what Congress is going to do.”

Gutting Brownfields Funding

Stanislaus said the decision to cut Brownfields grants doesn't align with Pruitt's or President Donald Trump's priorities.

“This does not make any sense,” he told Bloomberg BNA. “The Brownfields program is one of those programs that provides resources for local communities for economic development.”

The Brownfields program is currently funded at \$80 million, though President Barack Obama asked for the program to get an additional \$10 million in his most recent request. According to Becker's email, Brownfields grants would be cut to zero in fiscal year 2018.

Sue Boyle, head of the New Jersey Licensed Site Remediation Professional Association, said local officials are trying to figure out what that could mean for them.

“Everybody in my line of work has been trying to read the tea leaves,” she said.

In New Jersey, state-offered brownfields grants outnumber federal ones, she said. Cutting federal money may persuade grantees to seek grants at the state level.

“There are going to be states where the state programs are utilized even more than they were,” if federal funding is slashed, she said.

Larry Schnapf, chair of the Environmental Law section of the New York State Bar Association, said he doesn't think the federal brownfields cuts will make it through Congress. Cutting brownfields grants, which have enjoyed bipartisan support in past years, is “contrary to 20 years of federal policy,” he said.

“I just think this is budget cutters that are just looking for areas to trim, and I think there will be significant opposition,” Schnapf said.

Gone for Good?

Some of the programs listed have been left off past Democratic- and Republican-proposed budgets. In some cases, the agency cuts back on certain programs with the expectation that Congress will boost the numbers in the appropriations process. The popular clean water and drinking water state revolving funds, grants to state-run loan programs for rebuilding old water systems, are one example.

But Becker doesn't think Congress will revive the programs targeted in the budget document.

“You don't play games with that, especially in a budget period when there's going to be immense competition among budget programs,” he said. “I don't think they're playing that game assuming that Congress is going to fund programs.”

Tom Cole (R-Okla.), a member of the House Appropriations Subcommittee on the Interior Environment and Related Agencies, is concerned about some of the proposed EPA-wide cuts.

“When you're talking about cuts of that magnitude, you really are going to make (a) tremendous difference,” he said.

But Hal Rogers, (R-Ky.), a House Appropriations member and former chairman, said the agency still has fat to trim.

“I think EPA could stand the cuts. We've cut them back to 1989 staffing levels, but I still think they've been overextending their authority, even all the while,” Rogers said.

Marked for Cuts

Several of the programs on the list, including the Diesel Emissions Reduction Act grant program, were also targeted for funding cuts or elimination under the Obama administration.

Congress generally rejected Obama's proposed cuts to popular environmental grant programs, and in some cases, provided additional funding.

The DERA program, which funds projects to upgrade or replace older, higher-emitting diesel engines, is one of the EPA programs that saw its funding levels increase in recent years. The program's current annual funding level is \$50 million, compared to \$20 million in both fiscal 2013 and 2014.

Pruitt has indicated support for the DERA program. He said in a Feb. 24 statement announcing the grant that the EPA was “thrilled” to provide a \$1 million grant to Alabama that will be used to replace a diesel-powered ferry with a 100 percent electric ferry.

“This is a tremendous example of how EPA collaboration with state partners can produce environmental as well as economic benefits,” Pruitt said. “These grants provide not only

environmental and health benefits by eliminating exposure to diesel exhaust, but cost-effectiveness as well.”

Reliance on Federal Funds

The Association of Clean Water Administrators, which represents state and interstate water pollution agencies, hasn't been able to verify the cuts, but told Bloomberg BNA that their members rely heavily on state and tribal grants. For instance, the Clean Water Act's Section 319 grants are used to address nonpoint sources of pollution, such as agricultural runoff containing nitrogen and phosphorus that cause algae blooms and subsequent fish kills.

“Robust STAG funding is essential to implementation of environmental programs delegated to states, and significant cuts to state funding would seem to counter the messaging from the administration that states and EPA ‘are partners’ in carrying out the work of protecting public health and the environment,” Julia Anastasio, the association's executive director and general counsel, said when asked about the impact of the cuts.

The largest chunk of the state and tribal grants includes money for the state revolving funds for drinking water and clean water programs that provide a combination of low-interest loans and grants to municipalities to repair, rehabilitate and rebuild aging water infrastructure.

Pruitt told Bloomberg BNA he has been quietly pushing the White House to set aside funding for water infrastructure, but it is unclear how much of a priority that will be for the agency.

Ironically, Trump pledged during his campaign and after his election to triple these funds to the levels enacted in 2009 in his quest to improve and rebuild the nation's crumbling infrastructure.

In prior years, the Obama administration has proposed to zero out grants to monitor water quality at beaches, but Congress has always restored it during the appropriations process.

It is unclear, however, whether the Trump administration is proposing cuts to the beach grants program or some other research program within the EPA.

A year ago, Obama requested about \$9.6 million in his fiscal 2017 budget to improve the water quality in the Long Island Sound in New York, Lake Champlain in Vermont, San Francisco Bay and South Florida. Congress, in response, appropriated \$14.8 million for all three programs.

Little Change for Chemicals

Lynn Bergeson, managing partner of Bergeson & Campbell PC, a Washington, D.C.-based law firm that specializes in chemical and pesticide regulations, told Bloomberg BNA this is good news for the EPA's Office of Chemical Safety and Pollution Prevention Office, which oversees both chemicals and pesticides.

The OMB did not recommend any cuts to either the chemicals or pesticides offices, she said.

That gives the EPA flexibility. Given the Trump administration's priorities, the agency could choose surgical cuts in the budgets and staff within the air and water offices, while ensuring the chemicals and pesticides program have the resources they need to function, Bergeson said.

Both the chemicals and pesticides office are starved for staff right now, given the attrition that occurs at the end of every administration, she said.

Cuts in the chemicals program are not sustainable if the EPA is to deliver the enhanced chemical oversight Republicans and Democrats approved when they amended the Toxic Substances Control Act in 2016, Bergeson said.

Jack Pratt, chemicals campaign director at the Environmental Defense Fund, told Bloomberg BNA: "You can't burn down my house and still expect me to cook dinner just because the kitchen's still standing."

"These type of drastic funding cuts would hobble the agency across the board and would be certain to affect every program, even the ones not specifically targeted," Pratt said.

But he said a lot of work remains ahead.

"We are hopeful that the more responsible voices on both sides of the aisle will see this for what it is: a press release budget that might play well in certain circles, but will be dead on arrival in Congress," he said.

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Executive Order on Clean Power Plan Next Week, Per White House

By Ari Natter 3/2/17

President Donald Trump plans to issue an executive order instructing the EPA to begin re-doing the Clean Power Plan and overturn a federal moratorium on new coal leases on federal lands next week, White House spokeswoman Kelly Love said in an email.

Environmental Protection Agency Administrator Scott Pruitt, an opponent of the Clean Power Plan, had suggested an executive order directing the agency to begin the work to rescind the carbon dioxide emissions limits on power plants was imminent during a recent speech at the Conservative Political Action Conference.

"We have to send a message across the country that we're going to provide certainty by living within the framework Congress has passed," Pruitt said. "So we're going to see regulations rolled back that aren't consistent with that—[Waters of the U.S.], Clean Power Plan, the methane rule."

Trump just directed the EPA to rescind another Obama EPA rule intended to determine the jurisdiction of the Clean Water Act as the new administration aims to roll back burdens on industry groups, particularly the fossil fuel industry.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482432&vname=dennotallissues&wsn=49856450

Pruitt Sees Glimmer of Hope for Water Infrastructure in Trump Speech

By Dean Scott 3/2/17

President Donald Trump barely mentioned clean water but did talk a lot about infrastructure in his speech to Congress Feb. 28—enough to assure the new head of the Environmental Protection Agency that U.S. water projects won't be an afterthought in Trump's \$1 trillion infrastructure spending effort.

“I think infrastructure at times is interpreted only as roads and bridges,” Scott Pruitt, who was confirmed to head the agency less than two weeks ago, told Bloomberg BNA after Trump's address to Congress.

Pruitt said he has been quietly urging the White House to be sure to set aside some of the new funding Trump is readying for transportation and other infrastructure; Trump vowed to find \$1 trillion in combined public and private money.

“One of the things I've tried, in communicating to the White House, is that when we talk about infrastructure spending outside of the budget this year, water infrastructure needs to be part of that,” Pruitt said in an interview.

“It's a key aspect of how we do business with the states,” Pruitt said. States rely heavily on federal dollars for water infrastructure improvements: Since 1987, according to EPA figures, the federal Clean Water State Revolving Fund has provided more than \$118.8 billion in funding and loans to local communities for water projects.

In addition, the Association of Metropolitan Water Agencies has estimated that the nation's water infrastructure needs could increase by as much as \$944 billion by 2050.

A Telling Reference to ‘Clear’ Water?

It remains unclear, however, how much of a priority infrastructure will be. Trump and Congress currently are wrestling with a crowded legislative agenda that includes confirmation of his Cabinet and other officials as well as the Affordable Care Act and fiscal 2018 budget.

It's also unclear how a bigger emphasis on water projects would be squared with Trump's broader budget priorities, which reportedly include deep cuts in the EPA's budget of roughly \$8 billion. Overall, Trump said little in his first speech before a joint session of Congress on the environment and water issues beyond pledging to work with both parties "to promote clean air and clear" water.

But Pruitt saw a connection. "I think [a] clean air and water reference in the speech is encouraging, but we've got work to do with respect to our team" in elevating the importance of water projects to the White House, Pruitt said.

Infrastructure spending "after all, is very essential to our water quality, as you know," Pruitt said. "And that's something I hope to build and to advance to the White House with success—through infrastructure spending."

Pruitt didn't seem overly concerned about one big omission in Trump's speech—any reference to solar, wind or other renewable energy; in fact, the president never actually uttered the word "energy" in his hour-long speech.

Trump also didn't mention the Flint, Mich., water crisis due to lead contamination in the community's drinking water, though he said the U.S. has lost its way in funding one "global project after another" while ignoring "the fates of our children in the inner cities" of Chicago, Baltimore and Flint's neighboring city, Detroit.

Silence on Renewable Energy

Pruitt—who was seen by Democrats and environmental groups as too friendly to industry in repeatedly suing the EPA during his previous post as Oklahoma attorney general—said the omission of any clean energy reference wasn't surprising.

"Look, I didn't take anything from that, you know, that part of what he said tonight was [Trump] being anti-renewable energy," Pruitt said.

The president did refer to energy-related projects, such as his efforts to restart the Keystone XL pipeline. But the president steered clear of any mention of climate change, and the absence of a line or two on clean energy was a departure from what had been reliable applause lines in such speeches for President Barack Obama but also George W. Bush.

"What the president has said, and I think it's right, is that historically we shouldn't use regulatory policy to pick winners and losers" in pitting renewable energy against other sources such as natural gas and coal, Pruitt said.

"I mean, in my state of Oklahoma, we are in the top three of the country in providing electricity through renewable energy like wind, and that's a good thing," the EPA head said.

Utilities that generate electricity should be able to make "a market-based decision" in choosing their energy mix, Pruitt said.

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http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482439&vname=dennotallissues&wsn=49856500

White House Said to Propose 25 Percent Cut in EPA Budget Plan

By Ari Natter and Christopher Flavelle 3/2/17

The White House has recommended cutting the Environmental Protection Agency's budget by 25 percent and eliminating thousands of jobs and more than a dozen programs, according to an opponent of the budget plan.

The Office of Management and Budget blueprint given to the EPA includes ending programs such as one that protects coastal beaches and another that safeguards homeowners against radon poisoning. Grants to states would be slashed by 30 percent under the plan.

"These are shocking figures," said William Becker, the executive of the National Association of Clean Air Agencies, who obtained the plan. "These budget cuts would be devastating not only to EPA, but to state and local air pollution control agencies."

Becker said he received the figures from a government official he declined to identify. The EPA has been asked to suggest alternatives, according to Becker, whose group represents state officials responsible for cutting air pollution. Becker has led the Washington-based group for more than 35 years.

Spokespeople for the EPA and budget office didn't respond to several requests for comment. The budget request President Donald Trump will present to Congress is still weeks away, and so the specific programs and reductions could change.

Still, the document shows the reductions necessary at agencies in order to meet the blueprint laid out this week by Mick Mulvaney, the head of the budget office. The White House said it would propose boosting military spending by \$54 billion, while slashing other departments to offset that increase. The EPA has a budget of about \$8 billion and employs about 15,000 people.

One program set for elimination was set up to help implement the Clean Power Plan, a rule EPA Administrator Scott Pruitt has pledged to dismantle.

The EPA "probably spends a lot of unnecessary funds on promoting a political agenda and it probably needs to be rolled back," said Rep. Lamar Smith of Texas, who chairs the House Science Committee.

Other cuts appear to run counter to a pledge from Pruitt that EPA grants to states would be preserved. Instead those grants would be slashed by 30 percent under the plan.

“These proposed cuts negate any goodwill Trump may have shown during his congressional address, including his empty promises to promote clean air and water,” Travis Nichols, a spokesman for the environmental group Greenpeace, said in an email.

Another one of the more than 20 programs scheduled for elimination helps native villages in Alaska pay for safe drinking water and wastewater disposal. The state says it will fight to save it.

“I’m trying to reach out to anybody who has any influence on the federal government, to really take a look at not cutting this portion of the EPA,” Katherine Eldemar, director of Alaska’s Division of Community and Regional Affairs, said in an interview.

Cutting the EPA’s budget by nearly a quarter would likely be an uphill battle in Congress, especially in the Senate where Democratic support would be needed for passage.

“I would hope there would be many members of Congress who recognize that whatever policy differences that they had with the agency that is different from the basic organizational integrity of the EPA,” said Stan Meiburg, who served as the EPA’s acting deputy administrator during the Obama administration.

Reuters

<http://www.reuters.com/article/nrdc-epa-idUSL2N1GF0HL>

Environmental group sues EPA over municipal waterway pollution

By Rebecca Beyer 3/2/17 7:33 AM

The Environmental Protection Agency has failed to fulfill its duties under the U.S. Clean Water Act to reduce pollutants in recreational waterways in Los Angeles and Baltimore, the Natural Resources Defense Council claimed in two lawsuits filed this week.

The NRDC petitioned the EPA to address the pollution in the waterways in 2015. Becky Hammer, an NRDC lawyer, said the environmental group was suing now because the agency had taken no action.

Washington Post

<https://www.washingtonpost.com/news/energy-environment/wp/2017/03/02/former-epa-scientists-to-trump-evidence-does-not-change-when-the-administration->

Former EPA scientists to Trump: ‘Evidence does not change when the administration changes’

By Chris Mooney 3/2/17 8:00 AM

The Trump administration’s proposal to cut the Environmental Protection Agency is looking dramatic indeed. The plans call for laying off thousands of staff, eliminating entire programs and making deep cuts to the agency’s research office, the Office of Research and Development (ORD), according to recent reporting by The Washington Post.

That’s not to say all of this will happen — or that any of it will. Congress makes the final decisions on funding the government. But it’s a stunning proposal to researchers familiar with the workings of the EPA.

“I think a deep cut would be devastating to the nation’s capacity to do environmental health and ecosystem research,” said Jonathan Samet, a former chair of the agency’s Clean Air Scientific Advisory Committee who is now a professor of medicine at the University of Southern California.

Samet and two other former EPA science officials — Thomas A. Burke, who served as the agency’s science adviser and headed up ORD under President Barack Obama, and Bernard Goldstein, who was EPA’s assistant administrator for research and development under President Ronald Reagan — went even further in a commentary published Wednesday, calling on President Trump to change course and stand up for the agency and science.

“Evidence-based decision making on the environment should not be abandoned,” the two scientists write in a timely essay in the New England Journal of Medicine. “Reasoned action and acknowledgment of scientific truth are fundamental to democracy, public health, and economic growth. Scientific evidence does not change when the administration changes.”

The researchers now all hold academic posts. They describe the EPA’s Office of Research and Development as the “preeminent environmental research organization, a cornerstone of our global leadership in environmental science, and a key player in the training of environmental health scientists.” The ORD had a budget of \$521 million in 2015 with a staff of 1,755.

And the Post reported Wednesday that the administration is considering a proposal to cut this office by “up to 42 percent.”

There are many reasons that would be devastating, Samet said in an interview. One of them is that when environmental crises happen, like the Flint, Mich., or Deepwater Horizon disasters, you need a science infrastructure that’s ready to move. In these crises “that demand research and environmental surveillance and quickly trying to assess the toxicity of agents, the nation needs

the capacity that ORD has,” Samet said.

Samet and his co-authors aren’t the only academic scientists standing up for the EPA right now. Others are reacting to the first of many expected environmental rollbacks — Trump’s executive order this week directing the agency to rescind the “Waters of the U.S.” rule, which sweeps many smaller waterways under the protections of the Clean Water Act.

Seven presidents of scientific organizations representing more than 200,000 members have signed a letter opposing the first of many expected environmental rollbacks: Trump’s executive order this week directing the agency to rescind the “Waters of the U.S.” rule, which would protect many small waterways. The researchers argued the rule was based on solid science when it comes to the understanding of the importance of wetlands and how they relate to larger bodies of water.

The scientific societies weighing in are the Society of Wetland Scientists, the American Fisheries Society, the American Institute of Biological Sciences, the Ecological Society of America, the Phycological Society of America, the Society for Ecological Restoration, and the Society for Freshwater Science.

The more Trump and his administration propose environmental rollbacks and cuts to environmental or other science funding, the more researchers can be expected to speak out. Thousands are expected to march on Washington, and around the globe, on April 22 — Earth Day.

E&E News

<http://www.eenews.net/eedaily/2017/03/02/stories/1060050796>

Proposed budget cuts will be 'devastating' — ex-chief

By Kevin Bogardus 3/2/17

Former U.S. EPA Administrator Gina McCarthy said yesterday that President Trump's proposed budget cuts for the agency would be crippling.

In a television appearance on MSNBC, the former Obama-era agency chief said Trump's plan to cut EPA's budget by a quarter, about \$2 billion, would be "devastating."

"This is actually going to be devastating for the agency's ability to protect public health," McCarthy said.

McCarthy said she understood that the Trump administration was not likely to support former President Obama's efforts to combat climate change, "but this is going to the heart of our air and water protections."

"This is going to the heart of how EPA protects public health and American families," McCarthy added.

Trump's budget proposal for EPA targets several agency programs, not just climate initiatives, and would reduce the agency's workforce by 3,000 employees.

EPA Administrator Scott Pruitt has said that he has expressed concerns about the budget plan to Office of Management and Budget Director Mick Mulvaney.

"This is early in the process. These are discussions that are occurring with OMB and the executive agencies. I've emphasized the importance of those state revolving funds, of those [Water Infrastructure Finance and Innovation Act] grants, of making sure that we partner with the states in a very good way on water infrastructure," Pruitt said in an interview after Trump's address to the joint session of Congress on Tuesday night (E&E Daily, March 1).

Ex-New Jersey Gov. Christine Todd Whitman (R), who was President George W. Bush's first EPA administrator, also appeared on MSNBC with McCarthy. She said she was "fairly skeptical" of Trump's EPA, given the mixed signals that come from the president.

"It's a little hard to figure out this president, though, because he will say one thing in one minute and then find that some member of his Cabinet is doing something else, which you have to believe is coming from him," Whitman said.

Since his confirmation by the Senate last month, Pruitt has pledged to roll back some environmental regulations, beginning that process with the Waters of the U.S. rule this week, which he sued EPA over as Oklahoma attorney general. He also has doubted whether EPA has the authority to act on climate change.

"If the tools aren't in the toolbox and Congress hasn't spoken on the issue, agencies can't just make it up," Pruitt said Saturday at the Conservative Political Action Conference (E&E Daily, Feb. 27).

Whitman noted that EPA has been authorized by Congress to take action to protect the environment. The former agency chief said EPA had to act on climate change in a response to the 2009 finding that carbon emissions were harmful.

"That happens when you have a finding, let's say, of endangerment as with carbon, which was settled by the U.S. Supreme Court," Whitman said. "That was something that they had to take action. Didn't have a choice."

E&E News

<http://www.eenews.net/eedaily/2017/03/02/stories/1060050798>

GOP bill limits federal jurisdiction of navigable waters

By Ariel Wittenberg 3/2/17

Rep. Mac Thornberry (R-Texas) is hoping to quiet the debate over how far federal jurisdiction reaches under the Clean Water Act, filing a bill yesterday to amend the 1972 law to provide more clarity.

The "Federal Regulatory Certainty for Water Act" (H.R. 1261) would define the term "navigable waters of the U.S." under the Clean Water Act.

Until now, it has been up to U.S. EPA and the Army Corps of Engineers to define the term, which is not defined under the current law.

The topic has been hotly debated in recent years, with the Obama administration issuing its Clean Water Rule, also known as the Waters of the U.S., or WOTUS, rule, in an effort to clarify federal jurisdiction for wetlands and small waterways.

WOTUS was strongly opposed by farmers, land developers and energy companies for what they called federal overreach. Its implementation has been stayed by the courts pending litigation, and President Trump signed an executive order Tuesday directing EPA and the Army Corps to review and possibly rescind or replace the rule.

Thornberry's bill is an apparent direct response to WOTUS, specifically exempting many of the waterways the regulation would have included under federal jurisdiction.

His legislation would define "navigable waters" as waters that are either "navigable in fact" or those that have a permanent or continuously flowing bodies of water that form streams, rivers, lakes and oceans "that are connected to waters that are navigable in fact."

The bill also explicitly excludes waters "that do not physically abut" actually navigable waters through a surface water connection.

"Folks who live and work in our part of Texas, especially the farmers and ranchers, understand the importance of clean water and work hard to be good stewards of the land. This bill will help protect the personal property and water rights that are so fundamental to the American way of life, a family's business, and many people's livelihoods," Thornberry said in a statement.

The legislation would also exclude wetlands, playa lakes, prairie potholes, wet meadows, wet prairies and vernal pools, which were not covered by the Clean Water Act for the past decade and a half until the Obama administration decided in WOTUS that they should be considered for inclusion on a case-by-case basis. WOTUS also would have allowed those water features to be considered as a system, something Thornberry's bill would explicitly prohibit.

In Trump's executive order, he directs EPA and the Army Corps to consider whether a 2006

Supreme Court opinion written by late Justice Antonin Scalia should be used to decide which wetlands and streams are protected under the Clean Water Act.

Doing so would mark a significant change in the government's legal strategy for deciding federal jurisdiction, since both the George W. Bush and Obama administrations instead relied on an opinion by Justice Anthony Kennedy in that same case, *Rapanos v. United States*.

In a 4-1-4 vote, five justices ruled against EPA but split on which approach to use to define government jurisdiction, with Scalia's opinion for the four conservative justices being more limiting than Kennedy's stand-alone opinion.

Scalia, who died last year, argued that the Clean Water Act only applied to "navigable waters" connected by a surface flow at least part of the year. Kennedy said waters must have a "significant nexus" to actually navigable rivers and seas, which could include biological or chemical connections.

Thornberry's bill, however, would potentially be a more limiting definition of "navigable waters of the U.S." than Scalia's opinion.

Not only does Thornberry's bill explicitly exclude wetlands from federal jurisdiction but also excludes tributaries "through which water flows intermittently or ephemerally."

Scalia's opinion on intermittent streams has been subject to much debate in lower courts. While he argued in the body of his opinion that only "relatively permanent standing or continuously flowing bodies of water" should be protected by federal jurisdiction, he wrote in a footnote that his opinion did "not necessarily exclude seasonal rivers, which contain continuous flow during some months of the year but no flow during dry months."

Given the legal uncertainty, bills have been introduced on the issue in each of the past eight congressional sessions, but the legislation has never been signed into law.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/trumps-wotus-order-150061>

Trump's WOTUS order opens up options for EPA

By Annie Snider 3/2/17, 5:02AM

The executive order President Donald Trump signed on Tuesday may show his commitment to undoing the Obama administration's Waters of the U.S. rule, but it doesn't offer many clues about the path his administration will take to try to get there.

Between the battle currently churning in the courts over the rule and the formal rulemaking process that would be needed to unwind it, the Trump administration will need to move cautiously as it calculates its next steps.

The key question is whether the Trump administration's goal is to simply kill the Obama administration rule or try to write its own version that answers the underlying question of how far the Clean Water Act's protections reach.

That decision will be hard to make while several key administration positions sit empty. Scott Pruitt has been EPA administrator for less than two weeks, and he has yet to get a deputy, general counsel or assistant administrator for water, all of whom would be key advisers on how to proceed on the convoluted legal issue. Likewise, the post of assistant secretary of the Army for Civil Works, which oversees the Army Corps of Engineers, is unmanned and likely to remain so for a while, since Trump's pick for the top Army post withdrew his nomination in late February.

Pat Parenteau, a long-time environmental lawyer who now teaches at Vermont Law School, warned that until Pruitt installs own people to manage the review process at the agency, he could face fierce pushback from career staffers who developed the Obama administration rule.

"If he doesn't have a core, a cadre of loyal staff people around him, it's going to take months because I know what this agency is going to do — it's going to slow walk this stuff," Parenteau said.

Revising or rescinding the water rule, as the executive order instructs the EPA and Army Corps of Engineers to do, would require a rulemaking of its own — a process that could be undertaken a few different ways with differing timelines. Shortly after Trump signed the order, Pruitt signed his own Federal Register notice alerting the public that it intends to undertake a review of the rule and at some point in the future issue an advanced notice of proposed rulemaking.

Regardless of whether the Trump administration opts to use that for a straight withdraw of the rule or a major rewrite of it, EPA will have to justify the changes in its final rule and will need top-notch legal expertise to convince judges to uphold it. Environmental groups and states

supportive of the Obama rule are already preparing to challenge the move in court.

Jamison Colburn, a former EPA litigator who now teaches at Penn State Law, said it will be important for the agency to have a clear picture of what it wants its outcome to be before it begins that rulemaking process.

“The Notice of Proposed Rulemaking that goes out is going to control whatever challenges people who are disappointed with the outcome can bring from a procedural standpoint. If it doesn’t adequately signal what the agency’s expected actions are, you’re going to basically help them in their procedural challenges,” he said.

The legal side of the equation will be at least as important as the administrative moves to unwind the Obama rule, given that any changes to the Waters of the U.S. rule will face legal challenges that are almost certain to end up at the Supreme Court.

A Department of Justice spokesman said the agency is still reviewing the new executive order and wouldn’t comment on next steps. But some lawyers involved in the ongoing litigation say Justice Department lawyers have already begun reaching out to parties to the pending cases, feeling out their support for various approaches.

While Trump’s executive order suggests his administration is planning to undo WOTUS through the rulemaking process, the agencies could try to head off environmentalists’ court challenges by asking court justices for a voluntary remand of the rule first. If the Supreme Court agreed and handed the rule back to EPA, the agency could take its time reviewing the rule and deciding what, if anything, it wants to do next.

Going the voluntary remand route would also guarantee that the Obama rule doesn’t go into effect in the meantime — a risk the Trump administration would face if it moves ahead with a rulemaking while the litigation continues to play out.

The 6th Circuit Court of Appeals has blocked implementation of the Obama rule nationwide while it weighs challenges, but it’s not clear whether that court is the proper venue to hear the

case. The Supreme Court has agreed to hear arguments relating to the question of judicial jurisdiction.

If the high court proceeds with that case and ends up deciding that challenges should go through district courts first, then that nationwide injunction would be dissolved. That would mean plaintiffs would need to go back to the more than a half dozen district courts where challenges to the Obama rule were filed to ask for a new injunction.

Alternately, Trump's Justice Department could ask the Supreme Court to dismiss the case because the administration is proceeding with a new rulemaking. But there's no guarantee that the court would bite, since most legal experts expect that the question of judicial jurisdiction will end up back before the court before long. Moreover, a move to dismiss would surely be challenged by environmentalists and other supporters of the Obama rule, and even industry groups that oppose WOTUS might not back the move since they, too, know that the venue question eventually needs to be answered.

Add to this legal morass the possibility that the Trump administration will decide to write its own rule dealing with the underlying question of which marshes, bogs and creeks should be federally protected under the Clean Water Act. Such a move would win plaudits from property rights activists and industry groups who have for years been keen to cement a more limited approach to federal power under the 1972 law.

Trump's executive order suggests he's got an appetite for that challenge: It orders the agencies to focus on late Supreme Court Justice Antonin Scalia's opinion in a 2006 case when weighing the extent of federal power under the Clean Water Act. The test Scalia set when writing for the court's four conservative justices would greatly restrict the number of streams and wetlands across the country that receive federal protection.

In that case, *Rapanos v. United States*, Justice Anthony Kennedy sided with conservatives, providing the crucial fifth vote overturning the federal government's broad approach to federal jurisdiction, but set his own test, which a half dozen circuit courts have agreed is the one that must be met. Both the George W. Bush administration and the Obama administration have pegged their regulatory efforts to Kennedy's opinion.

Any move to enshrine a narrower approach to federal water protections based on Scalia's opinion would spark another all-out legal assault, this time from environmental groups.

“If they adopt a rule that significantly weakens the Clean Water Rule, that ignores the science and the law, you can get there will be all kinds of challenges,” said Jon Devine, senior attorney with the Natural Resources Defense Council.

All of these questions leave only one certainty, lawyers say: It will be years before the mass confusion over the scope of federal water protections is any closer to being resolved.

Politico

<http://www.politico.com/story/2017/03/trump-epa-environmental-regulations-235596>

Trump's green assault off to fast start

By Andrew Restuccia 3/2/17, 5:09AM

President Donald Trump is carrying out the most aggressive rollback of federal environmental rules since at least the Reagan administration.

And he's just getting started.

In just 40 days, Trump has made it easier for coal miners to dump their waste into West Virginia streams, ordered the repeal of Clean Water Act protections for vast stretches of wetlands, proposed massive job cuts at the Environmental Protection Agency and prepared to begin revoking the Obama administration's most ambitious climate change regulations.

Trump is also expected to overturn Barack Obama's moratorium on new federal coal leases, and is considering automakers' pleas for relief from a scheduled tightening of vehicle fuel-efficiency standards. Obama's pledge to send billions of dollars to United Nations climate programs is also likely on the chopping block. And Trump hasn't ruled out withdrawing the United States from

the 200-nation Paris climate agreement, a step that could undercut the international effort to confront global warming.

Trump's actions are true to his campaign rhetoric, including his promises to "get rid of" the EPA "in almost every form." They thrill conservative groups like the Heritage Foundation that share his disdain for federal regulations and want Washington to give more control to the states.

But they run afoul of some of Trump's greener post-election head fakes, including a much-publicized meeting in Trump Tower with Al Gore and media speculation that the president's daughter Ivanka might serve as a de-facto climate czar.

Trump's approach alarms environmental advocates and their allies in Congress, who say his early policy moves threaten to pollute the nation's air and water while undermining the future of the planet. They would also hobble agencies like EPA: The spending cuts Trump has ordered would chop nearly 25 percent of that agency's budget, even sharper than the reductions Ronald Reagan oversaw in his first term.

Unlike Reagan, Trump has no Democratic House majority to resist his policies. And decades after Reagan left office, scientists warn that policymakers have little time left to prevent the most catastrophic effects of climate change.

"I would call it the worst environmental disaster of all time if he has the ability to implement the plans which he has outlined," Sen. Ed Markey (D-Mass.) said of Trump.

Even some Republicans are concerned.

"I haven't ever really seen anything quite like this," said Christine Todd Whitman, who served as George W. Bush's first EPA administrator, warning that any effort to weaken enforcement of environmental rules could harm public health. "A lot of that enforcement is protecting people."

The Environmental Defense Fund, which has for decades cultivated relationships with Republican administrations, was so concerned about Trump's agenda that it publicly opposed Scott Pruitt's nomination for EPA administrator, a first for the group. As Oklahoma's attorney general, Pruitt had led legal challenges against a series of major EPA regulations, including a power plant rule that formed the centerpiece of Obama's climate strategy.

"We've worked with every Democrat and every Republican and we've never opposed any Cabinet official, period," EDF President Fred Krupp said in an interview. "That's how far outside the bipartisan environmental tradition the agenda is."

"The very bedrock protections that have led to dramatically cleaner air and a healthy environment through both Democratic and Republican administrations are under attack," he added.

The White House did not respond to a request for comment on this story. But conservatives say it's about time someone started cutting back Washington's tangled environmental bureaucracy.

"In a lot of ways the federal government has bitten off more than they can chew," said Nick Loris, an energy and environment economist at Heritage, which worked closely with Trump officials during the transition. "The Trump administration is undoing a lot of the regulations that the Obama administration put forth that would increase the cost of energy and would really be devoid of any environmental benefit."

At the EPA, one career official said many nervous employees are living by two mantras: "Shelter in place" and "Wait and see." The official said senior career staffers are "being kept out of the loop on major decisions" amid distrust from Trump's political appointees.

"Some folks have zero work," the official said. "Others, who the appointees trust because they are Republican, are getting overtime while their counterparts are dying to get work assignments."

To some long-time environmentalists, Trump's unabashed assault on key planks of Obama's agenda are especially harrowing.

“Reagan and [George W. Bush] after him made their big moves on Friday afternoon when the media had gone home or cloaked in Frank Luntz cotton-candy phrasing so that only the intended donor beneficiaries would know what was happening,” said Carl Pope, who led the Sierra Club for nearly two decades. “Trump proclaims it in prime time. He's not just trying to change policy. He's trying to eliminate a key phrase in the Constitution: ‘promote the general welfare,’ by changing our public culture.”

At the EPA, some career employees privately draw comparisons between Pruitt and Anne Gorsuch Burford, who drew widespread criticism from environmentalists and Democrats while leading the agency during Reagan’s first term.

Burford — the mother of Trump’s Supreme Court nominee, Neil Gorsuch — slashed the EPA’s budget by 22 percent and once bragged that she cut the agency’s book of clean water regulations from 6 inches thick to a half-inch, according to her Washington Post obituary from 2004. Her tenure included being held in contempt by the House after Reagan ordered her not to turn over records about Superfund cleanups.

At the core of Trump’s approach to energy and environmental issues is a disdain for federal regulation and bureaucracy, paired with a desire to streamline permit approvals. That was the motive behind one of his earliest executive actions, an order commanding federal agencies to rescind two regulations for every one they enact.

Trump has also signed off on congressional repeals of some Obama-era regulations, including an Interior Department rule meant to protect streams from pollution by mountaintop removal coal mining. And this week, he ordered EPA to begin rewriting the Obama administration's sweeping "Waters of the U.S." rule, a move that green groups say could leave 60 percent of U.S. stream miles and 20 million acres of wetlands unprotected from development or pollution.

Next week, Trump is set to sign an executive order that will start the process of unraveling Obama’s most important climate change regulations, aimed at limiting greenhouse gas emissions from coal-burning power plants. Those rules were the centerpiece of Obama’s commitment to other nations that the U.S., the world’s second-biggest carbon polluter, would do its share to lessen the causes of global warming.

A person familiar with Trump's order said it is expected to emphasize increasing U.S. energy independence and maximizing domestic energy production on federal lands, while eliminating and streamlining regulations. The order will also overturn the Obama administration's 2015 moratorium on new coal leases on federal lands.

The order won't have instant effect: It could take years for EPA to undo the regulations, and the administration will face fierce legal challenges from environmental groups.

Despite Trump's aggressive early moves, some of his advisers are pushing a more moderate approach on environmental policy — chiefly Ivanka Trump and her husband, Jared Kushner. The couple succeeded in removing language criticizing the 2015 Paris climate deal from the president's upcoming executive order, as The Wall Street Journal first reported.

Trump's advisers have not yet fleshed out a detailed position on whether the U.S. should stay in the Paris agreement, according to a person close to the process. Some advisers have argued the U.S. should pull out altogether, a process that would take years under the agreement's rules. Others favor staking out a middle ground, perhaps by staying in the agreement and rewriting the emissions reduction targets that Obama set.

In some ways, the debate is symbolic: None of the carbon reductions outlined in the Paris deal are legally binding. But climate advocates say U.S. leadership is critical to getting other nations to follow through on their pledges — so a pullout could undermine the agreement.

Trump has been equivocal on the Paris deal, saying during the campaign that he would "cancel" the agreement but later saying he has an "open mind." Secretary of State Rex Tillerson said during his confirmation hearing that the U.S. must keep "its seat at the table" for climate talks, but didn't commit to staying in the agreement.

Trump's critics and supporters alike are looking for clues about his future policy moves in his remaining personnel choices.

For example, sources close to the administration told POLITICO the administration is considering nominating Kathleen Hartnett White, a former Texas environmental regulator who is

a vocal skeptic of mainstream climate science, to lead the White House Council on Environmental Quality, a move that would infuriate green groups and signal a continuation of the president's current approach.

But sources said the White House is also considering less divisive candidates for the job. Those include Marty Hall, who was CEQ's chief of staff during the George W. Bush administration and is now an executive at the Ohio-based electric utility FirstEnergy.

In the meantime, though, defenders of the EPA are urging Trump not to ignore the agency's core missions, which are to protect human health and the environment.

"If EPA doesn't provide these protections, no one else will," said William Reilly, the EPA administrator under President George H.W. Bush. "No one else in the government has that mandate. It's EPA or nothing."

Alex Guillén contributed to this story.

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Breitbart

<http://www.breitbart.com/big-government/2017/03/02/farmers-applaud-trump-repealing-epa-water-rule/>

Farmers Applaud Trump for Repealing EPA's WOTUS Rule

By Joel B Pollak 3/2/17

Farmers are applauding President Donald Trump's executive order Tuesday that reverses the Environmental Protection Agency's "Waters of the United States" (WOTUS) rule, which gave the agency virtually limitless authority to regulate water on private land.

Introduced under President Barack Obama, the WOTUS expanded the EPA's interpretation of the Clean Water Act to include, as Texas Attorney General Ken Paxton said, "almost any piece

of land that gets wet and puddles.”

The Clean Water Act was intended to apply to “navigable” waters, but WOTUS interpreted that extremely broadly, so that it included waters with a “significant nexus” with navigable waters — in other words, taking in water that might eventually flow into navigable waterways.

The result was that the EPA could theoretically regulate everyday farming operations.

The Los Angeles Times notes that “farmers knew the cavalry was coming to their rescue on election night” because they expected Trump to repeal WOTUS. And on Tuesday, just hours before his first address to a special joint session of Congress, he delivered on those expectations.

The Times adds: “Trump had been uncharacteristically specific during his campaign about reversing the rules, and calls to ‘Repeal WOTUS’ were as common a rallying cry among growers as ‘Build the Wall’ was to his followers in rural manufacturing areas.

Newly-confirmed EPA director Scott Pruitt said in a statement: “The President’s action preserves a federal role in protecting water, but it also restores the states’ important role in the regulation of water.”

The State of California has been increasing its role in regulating water on private land, expanding its authority to include groundwater — a response prompted by fears of overuse during the recent extreme drought and the ongoing restriction of federal water allocations due to efforts to preserve the endangered Delta smelt.

With regard to federal regulation of water, however, farmers in California share their counterparts’ relief — and join those who feel satisfied that the new president is keeping his promises, regardless of “resistance” from Democrats and the media.

Huffington Post

http://www.huffingtonpost.com/entry/former-epa-heads-blast-pruitt_us_58b728e1e4b019d36d1030be

Former EPA Head Says White House Budget An ‘Attack’ On Agency and Science

By Chris D’Angelo 3/1/17, 9:07PM

WASHINGTON — With oil ally Scott Pruitt now at the helm of the Environmental Protection Agency and a White House looking to axe one-quarter of the agency’s funding, two former EPA administrators felt no need to equivocate.

“This is actually going to be devastating for the agency’s ability to protect public health,” Gina McCarthy, who served as EPA chief under former President Barack Obama, told MSNBC.

In a joint interview Wednesday with MSNBC's Greta van Susteren, McCarthy and Christine Todd Whitman, the former New Jersey governor who later served as EPA chief under President George W. Bush, warned that the proposed EPA cuts go far deeper than reeling in burdensome regulations.

McCarthy called the Trump administration's budget proposal "an attack on the agency" that would reduce staffing levels to where they were 40 years ago.

"I understood that this administration was likely not supportive of climate initiatives, but this is going to the heart of our air and water protections. This is going to the heart of how EPA protects the public health of American families," she said.

As The Huffington Post previously reported, the White House is looking to cut the EPA's budget by 25 percent, as well as eliminate 1 in 5 agency employees. And The Washington Post reports that the EPA's scientific research arm, the Office of Research and Development, could see up to a 42 percent cut. Last year, the agency's budget totaled nearly \$8.2 billion.

"We're talking about 42 percent of our scientists potentially losing their jobs this year," McCarthy added. "I mean, this is not just disagreeing with the science and wanting to deny it. This is telling half of the scientists that they're no longer welcome in the premiere environmental science agency in the world, the Environmental Protection Agency."

Asked if she thought Pruitt would do the right thing for EPA, Whitman said she was "skeptical."

"I hope fervently that the kind of message that the administrator gave the other day to the people who work at the agency, the career staff, where it was a pretty balanced approach, that's going to be more the tone we're going to see — more respect for the agency and its mission, what it does," she said.

"The agency is about protecting human health and the environment. And we don't want to lose that in an effort to ensure that the regulations in place are the ones the administration wants."

What Whitman and McCarthy had to say Wednesday came as little surprise. Both have previously spoken out against what is unfolding at EPA.

"[Pruitt] obviously doesn't care much for the agency or any of the regulations it has promulgated," Whitman said of the former Oklahoma attorney general in December. "He doesn't believe in climate change; he wants to roll back the Clean Power Plan."

In a statement earlier Wednesday to The Washington Post, McCarthy blasted the White House's budget proposal, saying it "ignores" not only "the need to invest in science and to implement the law," but also "the lessons of history that led to EPA's creation 46 years ago."

A gutting of the EPA will almost certainly get the endorsement of the agency's top boss; Pruitt sued the EPA 13 times as Oklahoma's attorney general.

Over the weekend, Pruitt said those calling for the abolishment of the EPA were “justified” in their beliefs. He credited the agency’s actions under the Obama administration for such outrage.

“I think people across this country look at the EPA much as they look at the IRS,” Pruitt said during his appearance at the Conservative Political Action Conference in Maryland. “There are going to be some big steps taken to address some of those regulations.”

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov

To: So, Katherine[so.katherine@epa.gov]; McCabe, Catherine[McCabe.Catherine@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Hull, George[Hull.George@epa.gov]; Slotkin, Ron[slotkin.ron@epa.gov]; Sowell, Sarah[Sowell.Sarah@epa.gov]; Hart, Daniel[Hart.Daniel@epa.gov]; Orquina, Jessica[Orquina.Jessica@epa.gov]; Actadmmccabe, Catherine17[Actadmmccabe.catherine17@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]; Konkus, John[konkus.john@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Kreutzer, David[kreutzer.david@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; AO OPA Media Relations[AO_OPA_Media_Relations@epa.gov]
From: McGonagle, Kevin
Sent: Thur 3/2/2017 7:09:32 PM
Subject: RE: OPA Clips 3/2/17

Below: American Ag Radio Network, Washington Examiner, The New Republic, Washington Post, E&E News (2), The Daily Caller, Agri-Pulse, Politico, CNN, The Hill, Bloomberg BNA (4), Reuters, Washington Post, E&E News (2), Politico (2), Breitbart, Huffington Post (3/1)

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American Ag Radio Network

<http://americanagnetwork.com/2017/03/epa-proposed-revocation-of-chlorpyrifos-threatens-growers-livelihoods/>

EPA Proposed Revocation of Chlorpyrifos Threatens Growers' Livelihoods

By Rusty Halvorson 3/1/17

In the months since the U.S. Environmental Protection Agency announced a proposal to revoke U.S. food tolerances for chlorpyrifos, growers, university Extension specialists and scientists have united to voice overwhelming support of the widely used insecticide. Since first registered in the United States in 1965, chlorpyrifos has played an important role in pest management efforts worldwide.

With the official EPA comment period concluding Jan. 17, 2017, and a final EPA decision forthcoming very soon, the future of chlorpyrifos – chemistry that is registered in nearly 100 countries for use on more than 50 different crops – hangs in the balance.

“For more than half a century, growers around the globe have relied on chlorpyrifos because of its outstanding control and low cost, and its role as an important tool in Integrated Pest Management programs,” says Phil Jost, portfolio marketing leader, U.S. crop protection insecticides for Dow AgroSciences. “Without chlorpyrifos to control many yield- and profit-

robbing pests, growers face limited or, in some cases, no viable alternatives.”

Dow AgroSciences is concerned about the far-reaching impact of EPA’s proposal to revoke U.S. food tolerances for the insecticide. The company is specifically concerned that EPA’s assessment of the chemistry lacks scientific rigor and that establishing food tolerance levels based on a nonreplicable epidemiology study sets an untenable precedent for current and future registrations.

EPA’s own Scientific Advisory Panel, along with the U.S. Department of Agriculture and other experts, have voiced concern that EPA has attempted to regulate chlorpyrifos based on a single unreplicated and unvalidated epidemiology study. In contrast, however, an extensive database of reliable and well-replicated data — developed based on sound scientific standards for chlorpyrifos — demonstrates that authorized uses of chlorpyrifos provide wide margins of protection for human health and safety when used as directed.

For growers like **Allen Tucker, a sugarbeet producer from St. Thomas, North Dakota**, chlorpyrifos is critical to protecting his crops from devastating pests and his operation’s sustainability. Tucker farms more than 4,000 acres – 700 dedicated to sugarbeets – and chairs the Sugarbeet Research and Education Board of Minnesota and North Dakota, an expert source of information on the sugarbeet industry.

“There are a limited number of products that can control sugarbeet root maggot effectively,” Tucker says. “With chlorpyrifos as a tool, we can apply it as a rescue treatment, if necessary, later in the growing season. Chlorpyrifos is our last line of defense against sugarbeet root maggot outbreaks. My farming operation would suffer greatly if this invaluable tool were to be taken off the market.”

John Weinand, a diversified grower from west-central North Dakota, echoes Tucker’s sentiment. Weinand grows dry pea, winter and durum wheat, corn, sunflowers, barley and canola, and relies heavily on chlorpyrifos. He is also a member of the National Association of Wheat Growers’ Environmental and Renewable Resources Committee.

“We rely heavily on chlorpyrifos to control orange blossom wheat midge,” Weinand says. “We turn to the expertise of our land grant university researchers for many agronomic practices and chlorpyrifos is their recommended ‘treatment of choice’ for midge. After using it, we nearly doubled our yield where there was a treatable infestation.”

“Anytime you take tools out of the toolbox and throw them away, it’s a loss for our operation,” Weinand says. “The recommendation we get from our university is based on solid science. It’s not random, and we feel EPA needs to understand that.”

Tucker says that without chlorpyrifos as an effective pest control tool, he would be forced to use other, less effective insecticides far more aggressively to keep sugarbeet root maggot pest outbreaks at bay.

“We would have to apply other insecticides before knowing the severity of an outbreak,” Tucker says. “The net result would likely be an increased application of insecticide active ingredients at

a greater cost. From an environmental standpoint, it benefits no one if we have to apply extra active ingredients of alternative insecticides to overcome insect pressure.”

“We remain optimistic that once EPA considers all of the scientific evidence and grower concerns, this product will continue to be available,” says Jost. “The decision carries huge implications, not only for food production and grower livelihoods, but just as importantly, for environmental sustainability, efforts to manage insect resistance and grower IPM programs.”

Washington Examiner

<http://www.washingtonexaminer.com/pruitt-looks-to-save-key-epa-grant-programs/article/2616268>

Pruitt looks to save key EPA grant programs

By John Siciliano 3/2/17 1:18 PM

Environment Protection Agency chief Scott Pruitt said Thursday he is trying to save the agency's grant programs from being slashed as the EPA braces for major cuts under President Trump's budget proposal.

Pruitt discussed his budget priorities for the agency at an annual conference of mayors Thursday in Washington. State and local governments rely on many of the grant programs he supports to improve water infrastructure and fund cleanups of waste that can lead to economic revitalization.

"I want you to know that with the White House and also with Congress, I am communicating a message that the brownfields program, the Superfund program, water infrastructure ... are essential to protect," Pruitt said. He added that the budget discussions are "just starting" in Congress, but there are already "some concerns about some of these grant programs that EPA has been a part of, historically," Pruitt said.

Pruitt's reassuring comments to local leaders come as the Trump administration is reportedly looking to slash EPA's budget by at least 25 percent. The main target of the Trump administration's cuts appears to be its climate change programs, but it is not clear how far the budget cuts would go.

Myron Ebell, the former head of Trump's EPA transition team, told the Washington Examiner in recent weeks that the grant programs likely would be spared in the budget because of how they will factor into Trump's infrastructure plan.

Trump "promised to undo all of Obama's climate agenda, including the greenhouse gas emissions rules for power plants; the [Waters of the U.S. rule]; and other job-killing rules," Ebell said in an email. "On the other hand, he supports the pass-through grants to the states for water and other environmental infrastructure projects."

The grants make up about half of the EPA's \$8 billion budget, Ebell said. "So I expect this funding to survive or even increase as significant budget cuts are made at the federal level."

Pruitt said Thursday that he supports EPA's many clean-up programs such as the Superfund and the brownfields, which are geared to revitalizing abandoned industrial sites.

"I want to be able to share that the investment with the brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits to the community and environmental benefits, as well," Pruitt told the mayors.

Trump is reportedly planning to cut EPA's \$8 billion budget by \$2 billion, which has EPA employees bracing for layoffs. Trump is expected to issue an executive order next week to scuttle EPA's Clean Power Plan, the centerpiece of former President Barack Obama's climate change agenda.

Trump is also expected to issue a separate order ending Obama's moratorium on coal leases at the Interior Department, now that Interior Secretary Ryan Zinke has been confirmed.

The New Republic

<https://newrepublic.com/minutes/141066/scott-pruitt-like-relax-epa-cuts>

Scott Pruitt would like you to relax about the EPA cuts.

By Emily Atkin 3/2/17

In the wake of news that President Donald Trump's budget slashes the Environmental Protection Agency by 25 percent, the department's new administrator called for calm and insisted he's not totally on board with the administration's plan. "Civility in our discourse is really, really important," Pruitt, who is wrongly skeptical of man-made climate change and frequently sued the EPA as Oklahoma's attorney general, said at a U.S. Conference of Mayors event in D.C. on Thursday. He implored those around him to "lean on these issues with some level of civility."

Pruitt said he opposes some of Trump's ideas for his agency—specifically Trump's idea to cut a number of popular grant programs for states. Pruitt said he'd like to preserve Brownfields grants, which help states clean up and reuse highly polluted industrial sites. He also cited federal grant programs that rebuild aging drinking water infrastructure, like the \$100 million EPA grant that Flint, Michigan, received last year to improve its corroded pipes. "I want you to know that with the White House and also with Congress, I am communicating a message that the Brownfields Program, the Superfund program, water infrastructure ... are essential to protect," Pruitt said.

Afterward, an EPA spokesperson declined to say if Pruitt opposed any other parts of Trump's reported slash-and-burn budget for the EPA, such as eliminating the Office of Environmental

Justice, reducing the workforce from 15,000 to about 12,000, and zeroing out funds for climate change initiatives and native Alaskan villages.

Washington Post

https://www.washingtonpost.com/news/energy-environment/wp/2017/03/02/heres-one-part-of-epa-that-the-agencys-new-leader-wants-to-protect/?utm_term=.f38c792a65b8

Here's one part of the EPA that the agency's new leader wants to protect

By Brady Dennis 3/2/17 12:37 PM

In case there was any question whether President Trump's administration has put a bull's eye on the Environmental Protection Agency, the White House's proposed budget cuts at the agency leave little doubt. Plans reviewed by The Washington Post this week outline a wish list for cutting the agency's staff by one-fifth and eliminating dozens of programs entirely.

But Thursday morning, new EPA Administrator Scott Pruitt — himself a longtime agency critic who has made clear he intends to scale back the EPA's reach — told a group of mayors from around the country that he intends to defend at least some pieces of the EPA.

"Superfund is an area that is absolutely essential," Pruitt told a gathering of the U.S. Conference of Mayors at the Capital Hilton. "The brownfields program, as well."

EPA's Superfund program, which has been around since 1980, is responsible for managing the cleanup of some of the country's most contaminated hazardous waste sites, as well as responding to significant environmental emergencies. There are more than 1,300 Superfund sites around the country, and most past cleanups have been paid for by the parties responsible for polluting. The brownfields program, which began in 1995, involves EPA grants for communities to help clean up and redevelop abandoned industrial sites.

The programs historically have been considered successes and are popular around the country among lawmakers and their constituents. The White House budget proposal this week, however, would shrink EPA grants to states by 30 percent and potentially cut the brownfields funding altogether.

"There's a brownfields in every congressional district," Chris Bollwage, the mayor of Elizabeth, N.J., told Pruitt on Thursday. "It's a program that's worked really well in my city and throughout the nation."

"It's a tremendous success," Pruitt agreed, urging the mayors to send him details of where the program has worked best. "I want to hear from you about those successes. I want to be able to share those with the White House. ... We need stories. We need illustrations about how important the brownfields program is to creating jobs and the environmental benefits that have

been achieved.”

Pruitt also said Thursday that he intends to advocate for water infrastructure funding as part of a broader infrastructure push by the Trump administration.

“We know when it goes wrong, it goes wrong badly,” Pruitt said, in an apparent reference to the Flint, Mich., water crisis. “We have a water infrastructure issue right now across this country. It’s not just roads and bridges.”

He said he planned to bring up the need for water infrastructure investment at a White House meeting Thursday afternoon.

Pruitt did not address the wave of other deep cuts proposed at the agency.

The White House’s initial proposal would reduce the agency’s staff by one-fifth in the first year — from 15,000 to 12,000 — and would slash the EPA’s budget from \$8.2 billion a year to \$6.1 billion. Grants to states, as well as the agency’s air and water programs, would be cut by nearly a third. The massive Chesapeake Bay cleanup project would receive only \$5 million in the next fiscal year, down from its current \$73 million. The agency’s Office of Research and Development could lose up to 42 percent of its budget. EPA’s environmental justice program could vanish. In total, 38 separate programs would be eliminated entirely.

Congress, of course, would have to approve any cuts, some of which are deeply unpopular among some lawmakers.

But there is little doubt about Trump’s disdain for much of the agency’s work. As a candidate, he vowed to eliminate the EPA “in almost every form,” leaving only “little tidbits” intact. As Oklahoma attorney general since 2010, Pruitt also has been a key EPA adversary, suing the agency more than a dozen times to challenge its legal authority to regulate such things as mercury pollution, smog and carbon emissions from power plants.

E&E News

<http://www.eenews.net/greenwire/2017/03/02/stories/1060050847>

Green success stories critical to budget battle — Pruitt

By Kevin Bogardus and Emily Holden 3/2/17

U.S. EPA Administrator Scott Pruitt pleaded with mayors this morning to share their environmental success stories with his agency.

The newly minted agency chief spoke to the U.S. Conference of Mayors in Washington, stressing that he wants to protect certain EPA programs from budget cuts proposed by President

Trump. The White House blueprint would cut EPA's budget by nearly a quarter, or roughly \$2 billion, and lay off 3,000 employees, which would leave several agency initiatives in limbo.

In his talk with mayors, Pruitt cautioned that the budget process was just starting.

"There are some concerns about some of these grant programs that EPA has been a part of historically," Pruitt said. "I want you to know that with the White House and also with Congress, I'm communicating the message that the brownfields program, the Superfund program, water infrastructure ... state revolving funds are essential to protect."

The EPA administrator said mayors have success stories with those cleanup programs such as brownfields and Superfund. They should share those stories with his agency as budget talks commence.

"There are tremendous successes all over the country," Pruitt said. "I want to hear from you about those successes. I want to be able to share those with the White House."

Pruitt said those programs lead to job creation as well as benefits to the community and the environment.

The EPA chief also noted that he has been invited to be part of the president's team on infrastructure and will be heading to the White House this afternoon to discuss the issue.

"We have a water infrastructure issue right now for us in this country," Pruitt said. "I want to hear from you on your needs with respect to water infrastructure."

In his early days as agency head, Pruitt has talked up the importance of clean water and cleanup programs. Today, he also discussed working with mayors to take down air pollution, noting there are still several nonattainment areas in the country that do not meet national air quality standards.

"I look forward to partnering with you in the future," Pruitt said.

State agencies stand ready to work with Pruitt at EPA.

"Our members realize this is the beginning of the conversation for FY2018 budget, and will look to engage with U.S. EPA, Congress and the White House to highlight recent success stories and the need for cooperative approaches to core Clean Air Act responsibilities," said Clint Woods, executive director of the Association of Air Pollution Control Agencies, in a statement to E&E News.

Nevertheless, Trump's budget cuts proposed for EPA have been meeting pushback on Capitol Hill as well as from agency employees.

Sen. Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee, said earlier this week that the proposed budget cuts "will put people across this country at risk for illnesses or even premature death." In addition, EPA Region 5 employees,

based in Chicago, were slated to protest this afternoon against the president's budget plan.

Some feel, however, that the Trump administration could change course, given the budget process has only just begun.

Jim Brainard, the Republican mayor of Carmel, Ind., and an outspoken supporter of fighting climate change, said he's "cautiously optimistic" that the president's views on climate change and environmental protection could change.

"Like so many things, the president started out, he hadn't been in government, he hadn't studied a lot of the issues," Brainard said. "We've seen him do 180s on several issues at this point."

He said he's hopeful because the president's daughter Ivanka and son-in-law, Jared Kushner, seem to support the environment. Brainard was also pleased that Pruitt asked for examples of the successful use of EPA funds to clean up brownfields.

"I haven't met a Republican or Democrat yet that wants to drink dirty water or breathe dirty air," Brainard said.

"I think we start to take into the equation the health cost of dirty air, the ozone issue that the administrator mentioned, there may be an opportunity to change minds at the White House."

Brainard said he thinks the administration is wrongfully looking to slash agency funds in order to reduce taxes and boost defense spending.

"I think they're looking to support this proposal, which may not have been well thought out, to cut taxes. They've got to look at every function of government and then combine that with the increase they want to give to the U.S. military," Brainard said. "I'm not sure the math works even in the best of cases."

E&E News

<http://www.eenews.net/greenwire/2017/03/02/stories/1060050820>

Wetlands scientists defend WOTUS with letter, brief

By Ariel Wittenberg 3/2/17

Seven scientific societies are speaking out against President Trump's executive order targeting the contentious Clean Water Rule.

Representing more than 200,000 members total, the Society of Wetland Scientists, Ecological Society of America, American Institute of Biological Scientists, American Fisheries Society, Society for Ecological Restoration, Society for Freshwater Science and Phycological Society of

America wrote a letter arguing in favor of the regulation.

"As non-profit organizations, we support and foster sound science, education, restoration and management of wetlands and other aquatic resources," the letter says, adding that the regulation was written "using the best available science."

Finalized by the Obama administration in May 2015, the Clean Water Rule, also known as the Waters of the U.S. rule, or WOTUS, caught the ire of farmers, land developers and energy companies.

The law was stayed in a federal court following multiple legal challenges, including one brought by now-U.S. EPA Administrator Scott Pruitt when he was Oklahoma attorney general.

On Tuesday, President Trump signed an executive order directing EPA and the Army Corps of Engineers to review and possibly rescind or replace the regulation (E&E News PM, Feb. 28).

The letter from the societies accompanies an amicus brief they filed in the 6th U.S. Circuit Court of Appeals to support a brief filed by the Obama administration defending the regulation earlier this year. That case has been stayed pending a Supreme Court review of whether it has jurisdiction over the regulation (Greenwire, Jan. 13).

In their letter, the organizations describe the ecological importance of wetlands, which can remove otherwise harmful nutrient pollution from water, as well as the benefits wetlands provide to humans.

"They store water, and thus are a source of water during times of drought," the letter says. "Many wetlands soak up runoff and floodwaters, which reduces peak flood-flows and avoids costly flood damage."

The Daily Caller

<http://dailycaller.com/2017/03/02/trump-orders-epa-to-zero-out-global-warming-programs/>

Trump Orders EPA To 'Zero Out' Global Warming Programs

By Michael Bastasch 3/2/17 10:08 AM

The White House is pushing for significant cuts to EPA programs and staff levels, giving a glimpse of how the Trump administration plans on devolving more control to the states.

The budget plan sent from the Office of Management and Budget (OMB) to EPA leadership calls for eliminating dozens of programs, including at least 16 that have to do with global warming and implementing former President Barack Obama's climate agenda.

OMB also requested a 30 percent cut in grants to states and a 20 percent reduction in EPA's workforce through buy-outs and layoffs. In total, President Donald Trump is calling for a roughly 25 percent cut to EPA's budget — about \$2 billion.

The cuts are laid out in a letter sent by William Becker, the executive director of the National Association of Clean Air Agencies (NACAA), to his group's member state and local regulators. Becker said NACAA received the "pass back" budget information sent from OMB to EPA Monday, according to InsideEPA.

Here are all the programs NACAA said OMB wants "zeroed out":

Alaska Native Villages Beach and Fish programs Brownfield projects

Clean Power Plan implementation

Climate Voluntary partnership programs < there are 14 separate ones

Diesel Emissions Reduction Act Endocrine grants Energy star grants

Environmental education Environmental justice

Geographical programs for lake [Champlain], L.I. Sound, S.F. Bay and South Florida

Global Change Research Mexico Border grants Multi-purpose grants

Office of Public Engagement Radon Star Research grants

Small minority businesses State indoor radon Targeted air shed grants

U.S. Mexico Border Water Sense

Democrats and environmentalists have opposed Trump's budget cuts, and EPA union leaders are hemming and hawing about cutting staffing levels. Even some Republicans aren't on board with cutting so much from EPA's budget.

"They are operating at 1989 staffing levels. So you really want to be sure you are not cutting the meat and muscle with the fat," Oklahoma Republican Rep. Tom Cole, who is on the House Committee on Appropriations, told Inside EPA.

"There's not that much in the EPA, for crying out loud," California Republican Rep. Mike Thompson told The Washington Post. Thompson formerly chaired the appropriations committee's subcommittee dealing with EPA.

What's unsurprising is Trump wants to get rid of more than a dozen global warming programs at

EPA, including funding to implement the Clean Power Plan (CPP)

Trump promised to repeal Obama's "Climate Action Plan" — the CPP is the linchpin of the former president's climate agenda. The CPP limits carbon dioxide emissions from new and existing power plants.

EPA Administrator Scott Pruitt helped lead a coalition of 28 states to overturn the rule while he was attorney general of Oklahoma. Trump is preparing to sign an executive order to rescind the CPP, so it's not surprising they'd cut funding for its implementation.

WaPo reported EPA's "Office of Research and Development could lose up to 42 percent of its budget, according to an individual apprised of the administration's plans."

The budget plan "eliminates funding altogether for the office's 'contribution to the U.S. Global Change Research Program,'" according to WaPo.

One area of concern, however, is the reduction in state and tribal grants for infrastructure and environmental clean-up. The Environmental Council of the States (ECS) sent a letter to EPA and OMB urging them not to cut those programs.

ECS wrote that "cuts to [state and tribal] categorical grants, or to EPA programs operated by states, will have profound impacts on states' ability to implement the core environmental programs as expected by our citizens."

More than 90 percent of EPA programs are carried out by state environmental regulators. That's something that concerns Pruitt, who promised to push back against OMB and preserve grants to states.

"I am concerned about the grants that have been targeted, particularly around water infrastructure, and those very important state revolving funds," Pruitt told E&E News Tuesday.

"What's important for us is to educate OMB on what the priorities of the agency are, from water infrastructure to Superfund, providing some of those tangible benefits to our citizens," Pruitt said, "while at the same time making sure that we reallocate, re-prioritize in our agency to do regulatory reform to get back within the bounds of Congress."

Agri-Pulse

<https://www.agri-pulse.com/articles/8981-pruitt-epa-rewrite-will-limit-reach-of-wotus-rule>

Pruitt: EPA rewrite will limit reach of WOTUS rule

By Philip Brasher 3/1/17

WASHINGTON, March 1, 2017 - The EPA will write a new definition of “waters of the United States” that is less expansive than the Obama administration’s rule that the agency is withdrawing, EPA Administrator Scott Pruitt said today in an exclusive Agri-Pulse interview.

Pruitt declined to estimate how long it would take for the agency to write a new WOTUS rule, which spells out what wetlands, streams, ditches and other land features are regulated by the Clean Water Act.

But the Trump administration is shifting away from using a legal approach followed by the Obama rule that appeared to extend the law’s jurisdiction to some wetlands and other areas that were not considered regulated before.

The Obama rule “defined waters of the United States so broadly ... that there really weren’t any boundaries between federal and state jurisdiction,” said Pruitt, who as Oklahoma’s attorney general filed one of several lawsuits against the rule.

“Federal jurisdiction usurped and displaced state jurisdiction. So that needs to be fixed. We need regulatory certainty around that, so that’s what we’re going to seek to achieve.”

Pruitt, who is in his second week on the job, also said that he wanted to accelerate the approval process for pesticides and industrial chemicals and was seeking to protect from spending cuts EPA’s funding programs for water infrastructure.

“We’re already in discussions on how to” speed the approval process for pesticides and chemicals, he said. “It’s absolutely a commitment that I’m seeking to establish,” he said.

The White House is planning deep cuts in non-defense discretionary spending at EPA and across the government. According to reports, the White House may propose slashing EPA’s \$8 billion budget by 24 percent alone. Pruitt said it was too soon to say what areas at his agency would be reduced. The state and tribal grant programs alone that he wants to protect account for 42 percent of EPA’s total budget.

In a White House ceremony with President Trump on Tuesday, Pruitt signed an advance notice of proposed rule-making (ANPR) that starts the process of replacing the Obama administration’s WOTUS rule.

The new rule will be developed in conjunction with the Army Corps of Engineers, which shares responsibility for enforcing the Clean Water Act. The new administration wants to limit the law’s jurisdiction to how it was interpreted by the late Justice Antonin Scalia in the Supreme Court’s 2006 Rapanos decision. Scalia said the law grants jurisdiction only over “relatively permanent bodies of water.”

The Obama administration had been adhering to a separate opinion written by Justice Anthony Kennedy that said wetlands and other water bodies with a “significant nexus” to navigable waters also were subject to jurisdiction under the water law. Scalia’s opinion was signed by the court’s other three conservative justices at the time. Kennedy sided with them in the outcome of

the case but wrote his separate opinion.

Pruitt said Kennedy's "significant nexus" terminology entailed a subjective approach to defining federal jurisdiction. It "provided no objective criteria. It's a case-by-case review. That's the poorest form of rule-making. Rule-making and regulations ought to provide a framework ... for people to make decisions, allocate resources and know what's expected of them," he said.

So, the new rule will be less expansive than the Obama rule? "Yes, yes," he replied.

Obama's EPA "so expanded jurisdiction of the Clean Water Act that it just made it a statute like Congress never intended it to be. They never intended the EPA to have ... jurisdiction over puddles and dry creek beds across the country," he said.

"That has to be fixed going forward, and that means the Kennedy definition is something that doesn't provide" the necessary clarity, he said.

The Obama rule included language for making case-by-case determinations of whether streams or wetlands would be deemed tributaries of a navigable waterway. "Significant nexus" was broadly defined in the rule as meaning a wetland or other water body that "significantly affects the chemical, physical, or biological integrity" of a navigable waterway. A wide variety of wetland functions could have met the definition, ranging from sediment trapping to the presence of waterfowl.

Environmentalists dispute the Trump administration's criticism of the rule. The rule was "grounded in science and law" and was "developed over many years, after more than 1 million public comments," said Rhea Suh, president of the Natural Resources Defense Council. "We all rely on healthy wetlands to curb flooding, filter pollutants, support fish, waterfowl and wildlife, and feed our rivers and lakes."

Because Pruitt was tied up with the WOTUS issue, he said he was unaware of a kerfuffle that erupted in the renewable fuels industry on Tuesday when rumors surfaced that Trump would issue a "not negotiable" executive order that would change the point of obligation under the Renewable Fuel Standard. Refiners are lobbying EPA to shift the responsibility for meeting biofuel usage mandates to fuel marketers.

Tuesday's reports indicated that the executive order would have changed the point of obligation in exchange for administrative assistance on a Reid vapor Pressure (RVP) waiver that would allow E15 – a gasoline blend with 15 percent ethanol – to be sold during the summer months.

EPA is reviewing comments on the issue. "I've not seen any kind of summary from our office on that process yet," he said.

Politico

<https://www.politicopro.com/energy/story/2017/03/pruitt-hints-at-pushback-on-white-house-proposals-to-slash-water-grants-brownfields-150236>

Pruitt vows to protect water grants, brownfields programs White House wants to slash

By Alex Guillen 3/2/17, 10:54AM

EPA Administrator Scott Pruitt said Thursday that he wants to protect state water grants as well as the brownfield program, despite the White House's proposal to slash state grants and zero out the clean-up program.

Pruitt did not directly discuss the White House's proposed cuts included in the "pass-back" budget sent to EPA this week, but asked a gathering of mayors to help him convince the administration not to seek major cuts to those key programs.

He specifically discussed the twin state revolving funds for drinking water and clean water that make up around \$2 billion of EPA's annual budget, as well as the nascent, and relatively small, Water Infrastructure Finance and Innovation Act program.

"States across the country, cities and town across the country, have relied upon those grants for a long, long time to improve water infrastructure," he told a gathering of the U.S. Conference of Mayors. "We have a water infrastructure issue right now across this country."

Pruitt said he will attend a White House meeting at 1 p.m. to discuss infrastructure issues, and he assured the mayors that he will make sure the administration considers water infrastructure alongside projects like roads and bridges. Pruitt did not say who he would be meeting with, but President Donald Trump and Vice President Mike Pence are both scheduled to be out of town this afternoon.

Those water infrastructure grants are at the "core" of EPA's mission, along with vital clean-up programs such as brownfields and Superfund, Pruitt said. The White House has proposed zeroing out EPA's brownfields program, which cleans up abandoned industrial sites for new uses.

"I want to be able to share [with the White House] that the investment in that brownfields

program needs to be enhanced and strengthened because it truly goes to job creation, benefits for the community and environmental benefits as well,” Pruitt said.

Pruitt did not mention EPA’s air grants, which are worth hundreds of millions of dollars each year for states to monitor and improve air quality, but he did note that significant swaths of the U.S. do not meet the ozone standard.

An EPA spokesman told reporters after Pruitt’s appearance that Pruitt’s mention of non-attainment issues shows he considers it an important issue. “That’s a topic that we’re going to have to get into and that is being discussed inside the EPA right now internally, how we work on air grants,” the spokesman said.

“There’s a purpose behind his words. He wants to make clear that there are certain things that EPA does that the mayors and their constituencies’ needs, and Congress and their constituencies need and want, that is good for jobs, the economy, the environment,” the spokesman added.

CNN

<http://www.cnn.com/2017/03/02/politics/epa-programs-donald-trump-budget/index.html>

Source reveals EPA programs Trump’s budget could cut

By Rene Marsh and Eli Watkins 3/2/17, 8:00AM

Washington (CNN)A wide slew of Environmental Protection Agency programs could be under the knife to meet President Donald Trump's budget proposal requirements, a source told CNN Wednesday night.

The source spelled out details of an Office of Management and Budget proposal that would cut the EPA's budget by 24% and reduce its staffing by 20%. Some of the EPA's most longstanding and best-known programs are facing potential elimination -- including initiatives aimed at improving water and air quality as well as a number of regulations tasked with reducing the nation's greenhouse gas emissions.

Other programs include the Environmental Justice program, which is meant to help local communities grapple with environmental concerns, and Global Change Research, a program funded by several agencies, including the EPA, which reports humans' impact on the planet.

The Clean Power Plan, which could also be recommended for cuts, was an initiative by former President Barack Obama meant to reduce carbon emissions from each state. Fourteen separate EPA partnership programs to reduce greenhouse gas emissions could also be on the chopping block.

Also among the programs up for elimination are multi-purpose grants to states and tribes, Energy Star grants, Science to Achieve Results (STAR) graduate fellowships, the Diesel Emissions Reduction Act and initiatives aimed at environmental protections along the US-Mexico border.

Some of the grants recommended for elimination could be matching grants for local projects around the country, the source added.

Ken Cook, the head of the Environmental Working Group, an advocacy and research organization, told CNN in a statement: "The Trump administration has decided fence-line communities across the country, whose residents already bear an outsized burden from pollution, are on their own to take on big polluters."

The EPA did not return a request for comment about the recommendation for budget cuts and staff reduction. CNN has also reached out to the White House for comment.

John Coequyt, a campaign director of the progressive environmental group Sierra Club, called the plan ludicrous and said the administration wouldn't be able to get signoff on these cuts from the legislative side. He also argued that zeroing out the Environmental Justice program, which focuses on fair protection from environmental and health hazards for people of all races and incomes, has racial motivations.

"To cut the Environmental Justice program at EPA is just racist," he said. "I can't imagine it's an office that runs up much cost. I can't describe it in any other terms than a move to leave those communities behind. I can't imagine what the justification would be, other than racism."

The sizable cuts won't play well around the country, he added.

"States and Congress won't go for this. They are proposing cutting programs that are connected to jobs in states and programs that address environmental issues," Coequyt said.

The Trump administration has put together a budget calling for an more than \$50 billion increase in defense spending and an equal cut to non-defense spending to make up the balance. Trump's budget director, OMB chief Mick Mulvaney, unveiled the proposal Monday at the White House, and a source told CNN to expect calls for substantial cuts to the State Department and the EPA.

Asked by CNN's Wolf Blitzer on Tuesday about possible cuts, newly-minted EPA administrator Scott Pruitt said it is "very important to protect" grants that are meant to help states with water infrastructure, and he believes the EPA has a "very important role" managing air and water quality across the country. Still, he tried to reassure those concerned about potential budget cuts and layoffs, saying the process is ongoing.

"What we need to realize is this is the beginning of the process, not the end of the process," Pruitt said.

The source who told CNN about the plan pointed out that Pruitt was so far the only permanent political employee at the agency.

I

n an interview Tuesday evening with E&E, an environmental policy-focused news outlet, Pruitt said he is concerned about cuts to grants and that he has spoken to Mulvaney about them.

"I am concerned about the grants that have been targeted, particularly around water infrastructure, and those very important state revolving funds," Pruitt said.

Pruitt was previously the Oklahoma attorney general and led lawsuits against the EPA during the Obama administration. Emails released after his confirmation to lead the EPA showed behind-

the-scenes collaboration with oil industry officials. Despite his past statements on climate science, Pruitt said at his confirmation that he did not believe climate change was a "hoax." However, he said climate change needs more debate, even though the overwhelming scientific consensus has said humanity is warming the planet through its release of carbon dioxide and other greenhouse gases.

The Hill

<http://thehill.com/policy/energy-environment/321979-epa-chief-defends-grant-programs-wh-is-eyeing-for-cuts>

EPA chief defends grant programs WH is eyeing for cuts

By Devin Henry 3/2/17 10:31 AM

Environmental Protection Agency (EPA) Administrator Scott Pruitt says he is urging the White House not to cut funding for several grant programs the Trump administration has targeted.

The White House is considering cutting a host of programs as part of an effort to slash the EPA's budget by up to a reported 24 percent.

Among those programs are grants for clean-up work at brownfields industrial sites and other grant programs for states, which Pruitt said Thursday should be protected.

"In this budget discussion that's ongoing with Congress, it's just starting, so there are some concerns about some of these grant programs that EPA has been a part of, historically," Pruitt told a gathering of mayors in Washington on Thursday.

"I want you to know that with the White House and also with Congress, I am communicating a message that the brownfields program, the Superfund program, water infrastructure ... are essential to protect."

Pruitt said funding for the superfund program, which aims to restore contaminated areas of the country, and clean-up at brownfields, former industrial sites too polluted for redevelopment, are priorities for him, and areas of the budget he will aim to protect in spending discussions.

"I want to be able to share that the investment with the brownfields program needs to be enhanced and strengthened because it truly goes to job creation, benefits to the community and environmental benefits, as well," he said

In a short speech to the mayors, Pruitt did not address other programs that are on the Trump administration's chopping block, including climate change funding.

The reported budget proposal for the EPA — a potential \$2 billion cut to the agency's \$8.1 billion budget — received mixed reviews on Capitol Hill this week. As expected, Democrats lambasted the idea, but some key Republicans were skeptical of it as well.

Pruitt told the mayors he also wants to help localities cut ozone levels to within the limits set by the EPA. He said he will push the White House to include water infrastructure in any construction package the Trump administration might put together this year.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482438&vname=dennotallissues&wsn=49856250

Proposed EPA Cuts Incense State Funding Proponents

By Sylvia Carignan 3/2/17

Environmental activists and former EPA staffers are shocked about proposed deep cuts to the agency's grants to states and skeptical those cuts can survive congressional scrutiny, while some Republicans say reining in EPA's budget is necessary.

Under a proposal from the Office of Management and Budget that circulated March 1 among environmental activists and associations, the Environmental Protection Agency could cut its grants to states by 30 percent in fiscal year 2018, putting about 20 grants on the chopping block.

The cuts are subject to congressional approval. The EPA has one day, March 1, to protest the suggestions.

Bill Becker, executive director of the National Association of Clean Air Agencies, sent an email to members March 1 about the proposed cuts.

The EPA has not verified the information in the email and has not provided responses to Bloomberg BNA's questions about the budget.

The proposal identified at least 22 grants and programs that would not be funded in fiscal year 2018, including those for the agency's Brownfields program, Energy Star, environmental justice, climate change research and health research.

The budget proposal also includes a 20 percent cut in EPA staff. The EPA's overall budget could be cut by 25 percent.

Contradicting Pruitt's Promise

“What people don't understand is a substantial portion of EPA resources go either directly to states, or what's technically called STAG,” the agency's State and Tribal Assistance Grants, said Mathy Stanislaus, former assistant administrator for the EPA's Office of Land and Emergency Management.

Those grants have been the largest part of EPA's budget request in past years. They formed about 40 percent of the agency's fiscal year 2016 and 2017 budgets. About \$3.3 billion of EPA's fiscal year 2017 budget was allocated for STAG.

The grants help states and tribes comply with EPA regulations and fund environmental projects. But the cuts contradict EPA Administrator Scott Pruitt's promise to place more control in states' hands, Becker said.

“We were expecting state grant programs were going to increase,” he told Bloomberg BNA. “Now we just have no idea what Congress is going to do.”

Gutting Brownfields Funding

Stanislaus said the decision to cut Brownfields grants doesn't align with Pruitt's or President Donald Trump's priorities.

“This does not make any sense,” he told Bloomberg BNA. “The Brownfields program is one of those programs that provides resources for local communities for economic development.”

The Brownfields program is currently funded at \$80 million, though President Barack Obama asked for the program to get an additional \$10 million in his most recent request. According to Becker's email, Brownfields grants would be cut to zero in fiscal year 2018.

Sue Boyle, head of the New Jersey Licensed Site Remediation Professional Association, said local officials are trying to figure out what that could mean for them.

“Everybody in my line of work has been trying to read the tea leaves,” she said.

In New Jersey, state-offered brownfields grants outnumber federal ones, she said. Cutting federal money may persuade grantees to seek grants at the state level.

“There are going to be states where the state programs are utilized even more than they were,” if federal funding is slashed, she said.

Larry Schnapf, chair of the Environmental Law section of the New York State Bar Association, said he doesn't think the federal brownfields cuts will make it through Congress. Cutting brownfields grants, which have enjoyed bipartisan support in past years, is “contrary to 20 years of federal policy,” he said.

“I just think this is budget cutters that are just looking for areas to trim, and I think there will be

significant opposition,” Schnapf said.

Gone for Good?

Some of the programs listed have been left off past Democratic- and Republican-proposed budgets. In some cases, the agency cuts back on certain programs with the expectation that Congress will boost the numbers in the appropriations process. The popular clean water and drinking water state revolving funds, grants to state-run loan programs for rebuilding old water systems, are one example.

But Becker doesn't think Congress will revive the programs targeted in the budget document.

“You don't play games with that, especially in a budget period when there's going to be immense competition among budget programs,” he said. “I don't think they're playing that game assuming that Congress is going to fund programs.”

Tom Cole (R-Okla.), a member of the House Appropriations Subcommittee on the Interior Environment and Related Agencies, is concerned about some of the proposed EPA-wide cuts.

“When you're talking about cuts of that magnitude, you really are going to make (a) tremendous difference,” he said.

But Hal Rogers, (R-Ky.), a House Appropriations member and former chairman, said the agency still has fat to trim.

“I think EPA could stand the cuts. We've cut them back to 1989 staffing levels, but I still think they've been overextending their authority, even all the while,” Rogers said.

Marked for Cuts

Several of the programs on the list, including the Diesel Emissions Reduction Act grant program, were also targeted for funding cuts or elimination under the Obama administration.

Congress generally rejected Obama's proposed cuts to popular environmental grant programs, and in some cases, provided additional funding.

The DERA program, which funds projects to upgrade or replace older, higher-emitting diesel engines, is one of the EPA programs that saw its funding levels increase in recent years. The program's current annual funding level is \$50 million, compared to \$20 million in both fiscal 2013 and 2014.

Pruitt has indicated support for the DERA program. He said in a Feb. 24 statement announcing the grant that the EPA was “thrilled” to provide a \$1 million grant to Alabama that will be used to replace a diesel-powered ferry with a 100 percent electric ferry.

“This is a tremendous example of how EPA collaboration with state partners can produce

environmental as well as economic benefits,” Pruitt said. “These grants provide not only environmental and health benefits by eliminating exposure to diesel exhaust, but cost-effectiveness as well.”

Reliance on Federal Funds

The Association of Clean Water Administrators, which represents state and interstate water pollution agencies, hasn't been able to verify the cuts, but told Bloomberg BNA that their members rely heavily on state and tribal grants. For instance, the Clean Water Act's Section 319 grants are used to address nonpoint sources of pollution, such as agricultural runoff containing nitrogen and phosphorus that cause algae blooms and subsequent fish kills.

“Robust STAG funding is essential to implementation of environmental programs delegated to states, and significant cuts to state funding would seem to counter the messaging from the administration that states and EPA ‘are partners’ in carrying out the work of protecting public health and the environment,” Julia Anastasio, the association's executive director and general counsel, said when asked about the impact of the cuts.

The largest chunk of the state and tribal grants includes money for the state revolving funds for drinking water and clean water programs that provide a combination of low-interest loans and grants to municipalities to repair, rehabilitate and rebuild aging water infrastructure.

Pruitt told Bloomberg BNA he has been quietly pushing the White House to set aside funding for water infrastructure, but it is unclear how much of a priority that will be for the agency.

Ironically, Trump pledged during his campaign and after his election to triple these funds to the levels enacted in 2009 in his quest to improve and rebuild the nation's crumbling infrastructure.

In prior years, the Obama administration has proposed to zero out grants to monitor water quality at beaches, but Congress has always restored it during the appropriations process.

It is unclear, however, whether the Trump administration is proposing cuts to the beach grants program or some other research program within the EPA.

A year ago, Obama requested about \$9.6 million in his fiscal 2017 budget to improve the water quality in the Long Island Sound in New York, Lake Champlain in Vermont, San Francisco Bay and South Florida. Congress, in response, appropriated \$14.8 million for all three programs.

Little Change for Chemicals

Lynn Bergeson, managing partner of Bergeson & Campbell PC, a Washington, D.C.-based law firm that specializes in chemical and pesticide regulations, told Bloomberg BNA this is good news for the EPA's Office of Chemical Safety and Pollution Prevention Office, which oversees both chemicals and pesticides.

The OMB did not recommend any cuts to either the chemicals or pesticides offices, she said.

That gives the EPA flexibility. Given the Trump administration's priorities, the agency could choose surgical cuts in the budgets and staff within the air and water offices, while ensuring the chemicals and pesticides program have the resources they need to function, Bergeson said.

Both the chemicals and pesticides office are starved for staff right now, given the attrition that occurs at the end of every administration, she said.

Cuts in the chemicals program are not sustainable if the EPA is to deliver the enhanced chemical oversight Republicans and Democrats approved when they amended the Toxic Substances Control Act in 2016, Bergeson said.

Jack Pratt, chemicals campaign director at the Environmental Defense Fund, told Bloomberg BNA: "You can't burn down my house and still expect me to cook dinner just because the kitchen's still standing."

"These type of drastic funding cuts would hobble the agency across the board and would be certain to affect every program, even the ones not specifically targeted," Pratt said.

But he said a lot of work remains ahead.

"We are hopeful that the more responsible voices on both sides of the aisle will see this for what it is: a press release budget that might play well in certain circles, but will be dead on arrival in Congress," he said.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482440&vname=dennotallissues&wsn=49856600

Executive Order on Clean Power Plan Next Week, Per White House

By Ari Natter 3/2/17

President Donald Trump plans to issue an executive order instructing the EPA to begin re-doing the Clean Power Plan and overturn a federal moratorium on new coal leases on federal lands next week, White House spokeswoman Kelly Love said in an email.

Environmental Protection Agency Administrator Scott Pruitt, an opponent of the Clean Power Plan, had suggested an executive order directing the agency to begin the work to rescind the carbon dioxide emissions limits on power plants was imminent during a recent speech at the Conservative Political Action Conference.

"We have to send a message across the country that we're going to provide certainty by living within the framework Congress has passed," Pruitt said. "So we're going to see regulations rolled

back that aren't consistent with that—[Waters of the U.S.], Clean Power Plan, the methane rule.”

Trump just directed the EPA to rescind another Obama EPA rule intended to determine the jurisdiction of the Clean Water Act as the new administration aims to roll back burdens on industry groups, particularly the fossil fuel industry.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482432&vname=dennotallissues&wsn=49856450

Pruitt Sees Glimmer of Hope for Water Infrastructure in Trump Speech

By Dean Scott 3/2/17

President Donald Trump barely mentioned clean water but did talk a lot about infrastructure in his speech to Congress Feb. 28—enough to assure the new head of the Environmental Protection Agency that U.S. water projects won't be an afterthought in Trump's \$1 trillion infrastructure spending effort.

“I think infrastructure at times is interpreted only as roads and bridges,” Scott Pruitt, who was confirmed to head the agency less than two weeks ago, told Bloomberg BNA after Trump's address to Congress.

Pruitt said he has been quietly urging the White House to be sure to set aside some of the new funding Trump is readying for transportation and other infrastructure; Trump vowed to find \$1 trillion in combined public and private money.

“One of the things I've tried, in communicating to the White House, is that when we talk about infrastructure spending outside of the budget this year, water infrastructure needs to be part of that,” Pruitt said in an interview.

“It's a key aspect of how we do business with the states,” Pruitt said. States rely heavily on federal dollars for water infrastructure improvements: Since 1987, according to EPA figures, the federal Clean Water State Revolving Fund has provided more than \$118.8 billion in funding and loans to local communities for water projects.

In addition, the Association of Metropolitan Water Agencies has estimated that the nation's water infrastructure needs could increase by as much as \$944 billion by 2050.

A Telling Reference to ‘Clear’ Water?

It remains unclear, however, how much of a priority infrastructure will be. Trump and Congress currently are wrestling with a crowded legislative agenda that includes confirmation of his Cabinet and other officials as well as the Affordable Care Act and fiscal 2018 budget.

It's also unclear how a bigger emphasis on water projects would be squared with Trump's broader budget priorities, which reportedly include deep cuts in the EPA's budget of roughly \$8 billion. Overall, Trump said little in his first speech before a joint session of Congress on the environment and water issues beyond pledging to work with both parties "to promote clean air and clear" water.

But Pruitt saw a connection. "I think [a] clean air and water reference in the speech is encouraging, but we've got work to do with respect to our team" in elevating the importance of water projects to the White House, Pruitt said.

Infrastructure spending "after all, is very essential to our water quality, as you know," Pruitt said. "And that's something I hope to build and to advance to the White House with success—through infrastructure spending."

Pruitt didn't seem overly concerned about one big omission in Trump's speech—any reference to solar, wind or other renewable energy; in fact, the president never actually uttered the word "energy" in his hour-long speech.

Trump also didn't mention the Flint, Mich., water crisis due to lead contamination in the community's drinking water, though he said the U.S. has lost its way in funding one "global project after another" while ignoring "the fates of our children in the inner cities" of Chicago, Baltimore and Flint's neighboring city, Detroit.

Silence on Renewable Energy

Pruitt—who was seen by Democrats and environmental groups as too friendly to industry in repeatedly suing the EPA during his previous post as Oklahoma attorney general—said the omission of any clean energy reference wasn't surprising.

"Look, I didn't take anything from that, you know, that part of what he said tonight was [Trump] being anti-renewable energy," Pruitt said.

The president did refer to energy-related projects, such as his efforts to restart the Keystone XL pipeline. But the president steered clear of any mention of climate change, and the absence of a line or two on clean energy was a departure from what had been reliable applause lines in such speeches for President Barack Obama but also George W. Bush.

"What the president has said, and I think it's right, is that historically we shouldn't use regulatory policy to pick winners and losers" in pitting renewable energy against other sources such as natural gas and coal, Pruitt said.

"I mean, in my state of Oklahoma, we are in the top three of the country in providing electricity through renewable energy like wind, and that's a good thing," the EPA head said.

Utilities that generate electricity should be able to make "a market-based decision" in choosing

their energy mix, Pruitt said.

Bloomberg BNA

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=106482439&vname=dennotallissues&wsn=49856500

White House Said to Propose 25 Percent Cut in EPA Budget Plan

By Ari Natter and Christopher Flavelle 3/2/17

The White House has recommended cutting the Environmental Protection Agency's budget by 25 percent and eliminating thousands of jobs and more than a dozen programs, according to an opponent of the budget plan.

The Office of Management and Budget blueprint given to the EPA includes ending programs such as one that protects coastal beaches and another that safeguards homeowners against radon poisoning. Grants to states would be slashed by 30 percent under the plan.

“These are shocking figures,” said William Becker, the executive of the National Association of Clean Air Agencies, who obtained the plan. “These budget cuts would be devastating not only to EPA, but to state and local air pollution control agencies.”

Becker said he received the figures from a government official he declined to identify. The EPA has been asked to suggest alternatives, according to Becker, whose group represents state officials responsible for cutting air pollution. Becker has led the Washington-based group for more than 35 years.

Spokespeople for the EPA and budget office didn't respond to several requests for comment. The budget request President Donald Trump will present to Congress is still weeks away, and so the specific programs and reductions could change.

Still, the document shows the reductions necessary at agencies in order to meet the blueprint laid out this week by Mick Mulvaney, the head of the budget office. The White House said it would propose boosting military spending by \$54 billion, while slashing other departments to offset that increase. The EPA has a budget of about \$8 billion and employs about 15,000 people.

One program set for elimination was set up to help implement the Clean Power Plan, a rule EPA Administrator Scott Pruitt has pledged to dismantle.

The EPA “probably spends a lot of unnecessary funds on promoting a political agenda and it probably needs to be rolled back,” said Rep. Lamar Smith of Texas, who chairs the House Science Committee.

Other cuts appear to run counter to a pledge from Pruitt that EPA grants to states would be

preserved. Instead those grants would slashed by 30 percent under the plan.

“These proposed cuts negate any goodwill Trump may have shown during his congressional address, including his empty promises to promote clean air and water,” Travis Nichols, a spokesman for the environmental group Greenpeace, said in an email.

Another one of the more than 20 programs scheduled for elimination helps native villages in Alaska pay for safe drinking water and wastewater disposal. The state says it will fight to save it.

“I’m trying to reach out to anybody who has any influence on the federal government, to really take a look at not cutting this portion of the EPA,” Katherine Eldemar, director of Alaska’s Division of Community and Regional Affairs, said in an interview.

Cutting the EPA’s budget by nearly a quarter would likely be an uphill battle in Congress, especially in the Senate where Democratic support would be needed for passage.

“I would hope there would be many members of Congress who recognize that whatever policy differences that they had with the agency that is different from the basic organizational integrity of the EPA,” said Stan Meiburg, who served as the EPA’s acting deputy administrator during the Obama administration.

Reuters

<http://www.reuters.com/article/nrdc-epa-idUSL2N1GF0HL>

Environmental group sues EPA over municipal waterway pollution

By Rebecca Beyer 3/2/17 7:33 AM

The Environmental Protection Agency has failed to fulfill its duties under the U.S. Clean Water Act to reduce pollutants in recreational waterways in Los Angeles and Baltimore, the Natural Resources Defense Council claimed in two lawsuits filed this week.

The NRDC petitioned the EPA to address the pollution in the waterways in 2015. Becky Hammer, an NRDC lawyer, said the environmental group was suing now because the agency had taken no action.

Washington Post

<https://www.washingtonpost.com/news/energy-environment/wp/2017/03/02/former-epa->

[scientists-to-trump-evidence-does-not-change-when-the-administration-changes/?utm_term=.e294f76e68ae](#)

Former EPA scientists to Trump: ‘Evidence does not change when the administration changes’

By Chris Mooney 3/2/17 8:00 AM

The Trump administration’s proposal to cut the Environmental Protection Agency is looking dramatic indeed. The plans call for laying off thousands of staff, eliminating entire programs and making deep cuts to the agency’s research office, the Office of Research and Development (ORD), according to recent reporting by The Washington Post.

That’s not to say all of this will happen — or that any of it will. Congress makes the final decisions on funding the government. But it’s a stunning proposal to researchers familiar with the workings of the EPA.

“I think a deep cut would be devastating to the nation’s capacity to do environmental health and ecosystem research,” said Jonathan Samet, a former chair of the agency’s Clean Air Scientific Advisory Committee who is now a professor of medicine at the University of Southern California.

Samet and two other former EPA science officials — Thomas A. Burke, who served as the agency’s science adviser and headed up ORD under President Barack Obama, and Bernard Goldstein, who was EPA’s assistant administrator for research and development under President Ronald Reagan — went even further in a commentary published Wednesday, calling on President Trump to change course and stand up for the agency and science.

“Evidence-based decision making on the environment should not be abandoned,” the two scientists write in a timely essay in the New England Journal of Medicine. “Reasoned action and acknowledgment of scientific truth are fundamental to democracy, public health, and economic growth. Scientific evidence does not change when the administration changes.”

The researchers now all hold academic posts. They describe the EPA’s Office of Research and Development as the “preeminent environmental research organization, a cornerstone of our global leadership in environmental science, and a key player in the training of environmental health scientists.” The ORD had a budget of \$521 million in 2015 with a staff of 1,755.

And the Post reported Wednesday that the administration is considering a proposal to cut this office by “up to 42 percent.”

There are many reasons that would be devastating, Samet said in an interview. One of them is that when environmental crises happen, like the Flint, Mich., or Deepwater Horizon disasters, you need a science infrastructure that’s ready to move. In these crises “that demand research and

environmental surveillance and quickly trying to assess the toxicity of agents, the nation needs the capacity that ORD has,” Samet said.

Samet and his co-authors aren’t the only academic scientists standing up for the EPA right now. Others are reacting to the first of many expected environmental rollbacks — Trump’s executive order this week directing the agency to rescind the “Waters of the U.S.” rule, which sweeps many smaller waterways under the protections of the Clean Water Act.

Seven presidents of scientific organizations representing more than 200,000 members have signed a letter opposing the first of many expected environmental rollbacks: Trump’s executive order this week directing the agency to rescind the “Waters of the U.S.” rule, which would protect many small waterways. The researchers argued the rule was based on solid science when it comes to the understanding of the importance of wetlands and how they relate to larger bodies of water.

The scientific societies weighing in are the Society of Wetland Scientists, the American Fisheries Society, the American Institute of Biological Sciences, the Ecological Society of America, the Phycological Society of America, the Society for Ecological Restoration, and the Society for Freshwater Science.

The more Trump and his administration propose environmental rollbacks and cuts to environmental or other science funding, the more researchers can be expected to speak out. Thousands are expected to march on Washington, and around the globe, on April 22 — Earth Day.

E&E News

<http://www.eenews.net/eedaily/2017/03/02/stories/1060050796>

Proposed budget cuts will be 'devastating' — ex-chief

By Kevin Bogardus 3/2/17

Former U.S. EPA Administrator Gina McCarthy said yesterday that President Trump's proposed budget cuts for the agency would be crippling.

In a television appearance on MSNBC, the former Obama-era agency chief said Trump's plan to cut EPA's budget by a quarter, about \$2 billion, would be "devastating."

"This is actually going to be devastating for the agency's ability to protect public health," McCarthy said.

McCarthy said she understood that the Trump administration was not likely to support former President Obama's efforts to combat climate change, "but this is going to the heart of our air and

water protections."

"This is going to the heart of how EPA protects public health and American families," McCarthy added.

Trump's budget proposal for EPA targets several agency programs, not just climate initiatives, and would reduce the agency's workforce by 3,000 employees.

EPA Administrator Scott Pruitt has said that he has expressed concerns about the budget plan to Office of Management and Budget Director Mick Mulvaney.

"This is early in the process. These are discussions that are occurring with OMB and the executive agencies. I've emphasized the importance of those state revolving funds, of those [Water Infrastructure Finance and Innovation Act] grants, of making sure that we partner with the states in a very good way on water infrastructure," Pruitt said in an interview after Trump's address to the joint session of Congress on Tuesday night (E&E Daily, March 1).

Ex-New Jersey Gov. Christine Todd Whitman (R), who was President George W. Bush's first EPA administrator, also appeared on MSNBC with McCarthy. She said she was "fairly skeptical" of Trump's EPA, given the mixed signals that come from the president.

"It's a little hard to figure out this president, though, because he will say one thing in one minute and then find that some member of his Cabinet is doing something else, which you have to believe is coming from him," Whitman said.

Since his confirmation by the Senate last month, Pruitt has pledged to roll back some environmental regulations, beginning that process with the Waters of the U.S. rule this week, which he sued EPA over as Oklahoma attorney general. He also has doubted whether EPA has the authority to act on climate change.

"If the tools aren't in the toolbox and Congress hasn't spoken on the issue, agencies can't just make it up," Pruitt said Saturday at the Conservative Political Action Conference (E&E Daily, Feb. 27).

Whitman noted that EPA has been authorized by Congress to take action to protect the environment. The former agency chief said EPA had to act on climate change in a response to the 2009 finding that carbon emissions were harmful.

"That happens when you have a finding, let's say, of endangerment as with carbon, which was settled by the U.S. Supreme Court," Whitman said. "That was something that they had to take action. Didn't have a choice."

E&E News

<http://www.eenews.net/eedaily/2017/03/02/stories/1060050798>

GOP bill limits federal jurisdiction of navigable waters

By Ariel Wittenberg 3/2/17

Rep. Mac Thornberry (R-Texas) is hoping to quiet the debate over how far federal jurisdiction reaches under the Clean Water Act, filing a bill yesterday to amend the 1972 law to provide more clarity.

The "Federal Regulatory Certainty for Water Act" (H.R. 1261) would define the term "navigable waters of the U.S." under the Clean Water Act.

Until now, it has been up to U.S. EPA and the Army Corps of Engineers to define the term, which is not defined under the current law.

The topic has been hotly debated in recent years, with the Obama administration issuing its Clean Water Rule, also known as the Waters of the U.S., or WOTUS, rule, in an effort to clarify federal jurisdiction for wetlands and small waterways.

WOTUS was strongly opposed by farmers, land developers and energy companies for what they called federal overreach. Its implementation has been stayed by the courts pending litigation, and President Trump signed an executive order Tuesday directing EPA and the Army Corps to review and possibly rescind or replace the rule.

Thornberry's bill is an apparent direct response to WOTUS, specifically exempting many of the waterways the regulation would have included under federal jurisdiction.

His legislation would define "navigable waters" as waters that are either "navigable in fact" or those that have a permanent or continuously flowing bodies of water that form streams, rivers, lakes and oceans "that are connected to waters that are navigable in fact."

The bill also explicitly excludes waters "that do not physically abut" actually navigable waters through a surface water connection.

"Folks who live and work in our part of Texas, especially the farmers and ranchers, understand the importance of clean water and work hard to be good stewards of the land. This bill will help protect the personal property and water rights that are so fundamental to the American way of life, a family's business, and many people's livelihoods," Thornberry said in a statement.

The legislation would also exclude wetlands, playa lakes, prairie potholes, wet meadows, wet prairies and vernal pools, which were not covered by the Clean Water Act for the past decade and a half until the Obama administration decided in WOTUS that they should be considered for inclusion on a case-by-case basis. WOTUS also would have allowed those water features to be considered as a system, something Thornberry's bill would explicitly prohibit.

In Trump's executive order, he directs EPA and the Army Corps to consider whether a 2006 Supreme Court opinion written by late Justice Antonin Scalia should be used to decide which wetlands and streams are protected under the Clean Water Act.

Doing so would mark a significant change in the government's legal strategy for deciding federal jurisdiction, since both the George W. Bush and Obama administrations instead relied on an opinion by Justice Anthony Kennedy in that same case, *Rapanos v. United States*.

In a 4-1-4 vote, five justices ruled against EPA but split on which approach to use to define government jurisdiction, with Scalia's opinion for the four conservative justices being more limiting than Kennedy's stand-alone opinion.

Scalia, who died last year, argued that the Clean Water Act only applied to "navigable waters" connected by a surface flow at least part of the year. Kennedy said waters must have a "significant nexus" to actually navigable rivers and seas, which could include biological or chemical connections.

Thornberry's bill, however, would potentially be a more limiting definition of "navigable waters of the U.S." than Scalia's opinion.

Not only does Thornberry's bill explicitly exclude wetlands from federal jurisdiction but also excludes tributaries "through which water flows intermittently or ephemerally."

Scalia's opinion on intermittent streams has been subject to much debate in lower courts. While he argued in the body of his opinion that only "relatively permanent standing or continuously flowing bodies of water" should be protected by federal jurisdiction, he wrote in a footnote that his opinion did "not necessarily exclude seasonal rivers, which contain continuous flow during some months of the year but no flow during dry months."

Given the legal uncertainty, bills have been introduced on the issue in each of the past eight congressional sessions, but the legislation has never been signed into law.

Politico

<https://www.politicopro.com/agriculture/story/2017/03/trumps-wotus-order-150061>

Trump's WOTUS order opens up options for EPA

By Annie Snider 3/2/17, 5:02AM

The executive order President Donald Trump signed on Tuesday may show his commitment to undoing the Obama administration's Waters of the U.S. rule, but it doesn't offer many clues about the path his administration will take to try to get there.

Between the battle currently churning in the courts over the rule and the formal rulemaking process that would be needed to unwind it, the Trump administration will need to move cautiously as it calculates its next steps.

The key question is whether the Trump administration's goal is to simply kill the Obama administration rule or try to write its own version that answers the underlying question of how far the Clean Water Act's protections reach.

That decision will be hard to make while several key administration positions sit empty. Scott Pruitt has been EPA administrator for less than two weeks, and he has yet to get a deputy, general counsel or assistant administrator for water, all of whom would be key advisers on how to proceed on the convoluted legal issue. Likewise, the post of assistant secretary of the Army for Civil Works, which oversees the Army Corps of Engineers, is unmanned and likely to remain so for a while, since Trump's pick for the top Army post withdrew his nomination in late February.

Pat Parenteau, a long-time environmental lawyer who now teaches at Vermont Law School, warned that until Pruitt installs own people to manage the review process at the agency, he could face fierce pushback from career staffers who developed the Obama administration rule.

"If he doesn't have a core, a cadre of loyal staff people around him, it's going to take months because I know what this agency is going to do — it's going to slow walk this stuff," Parenteau said.

Revising or rescinding the water rule, as the executive order instructs the EPA and Army Corps of Engineers to do, would require a rulemaking of its own — a process that could be undertaken a few different ways with differing timelines. Shortly after Trump signed the order, Pruitt signed his own Federal Register notice alerting the public that it intends to undertake a review of the rule and at some point in the future issue an advanced notice of proposed rulemaking.

Regardless of whether the Trump administration opts to use that for a straight withdraw of the rule or a major rewrite of it, EPA will have to justify the changes in its final rule and will need

top-notch legal expertise to convince judges to uphold it. Environmental groups and states supportive of the Obama rule are already preparing to challenge the move in court.

Jamison Colburn, a former EPA litigator who now teaches at Penn State Law, said it will be important for the agency to have a clear picture of what its outcome will be before it begins that rulemaking process.

“The Notice of Proposed Rulemaking that goes out is going to control whatever challenges people who are disappointed with the outcome can bring from a procedural standpoint. If it doesn’t adequately signal what the agency’s expected actions are, you’re going to basically help them in their procedural challenges,” he said.

The legal side of the equation will be at least as important as the administrative moves to unwind the Obama rule, given that any changes to the Waters of the U.S. rule will face legal challenges that are almost certain to end up at the Supreme Court.

A Department of Justice spokesman said the agency is still reviewing the new executive order and wouldn’t comment on next steps. But some lawyers involved in the ongoing litigation say Justice Department lawyers have already begun reaching out to parties to the pending cases, feeling out their support for various approaches.

While Trump’s executive order suggests his administration is planning to undo WOTUS through the rulemaking process, the agencies could try to head off environmentalists’ court challenges by asking court justices for a voluntary remand of the rule first. If the Supreme Court agreed and handed the rule back to EPA, the agency could take its time reviewing the rule and deciding what, if anything, it wants to do next.

Going the voluntary remand route would also guarantee that the Obama rule doesn’t go into effect in the meantime — a risk the Trump administration would face if it moves ahead with a rulemaking while the litigation continues to play out.

The 6th Circuit Court of Appeals has blocked implementation of the Obama rule nationwide

while it weighs challenges, but it's not clear whether that court is the proper venue to hear the case. The Supreme Court has agreed to hear arguments relating to the question of judicial jurisdiction.

If the high court proceeds with that case and ends up deciding that challenges should go through district courts first, then that nationwide injunction would be dissolved. That would mean plaintiffs would need to go back to the more than a half dozen district courts where challenges to the Obama rule were filed to ask for a new injunction.

Alternately, Trump's Justice Department could ask the Supreme Court to dismiss the case because the administration is proceeding with a new rulemaking. But there's no guarantee that the court would bite, since most legal experts expect that the question of judicial jurisdiction will end up back before the court before long. Moreover, a move to dismiss would surely be challenged by environmentalists and other supporters of the Obama rule, and even industry groups that oppose WOTUS might not back the move since they, too, know that the venue question eventually needs to be answered.

Add to this legal morass the possibility that the Trump administration will decide to write its own rule dealing with the underlying question of which marshes, bogs and creeks should be federally protected under the Clean Water Act. Such a move would win plaudits from property rights activists and industry groups who have for years been keen to cement a more limited approach to federal power under the 1972 law.

Trump's executive order suggests he's got an appetite for that challenge: It orders the agencies to focus on late Supreme Court Justice Antonin Scalia's opinion in a 2006 case when weighing the extent of federal power under the Clean Water Act. The test Scalia set when writing for the court's four conservative justices would greatly restrict the number of streams and wetlands across the country that receive federal protection.

In that case, *Rapanos v. United States*, Justice Anthony Kennedy sided with conservatives, providing the crucial fifth vote overturning the federal government's broad approach to federal jurisdiction, but set his own test, which a half dozen circuit courts have agreed is the one that must be met. Both the George W. Bush administration and the Obama administration have pegged their regulatory efforts to Kennedy's opinion.

Any move to enshrine a narrower approach to federal water protections based on Scalia's opinion would spark another all-out legal assault, this time from environmental groups.

“If they adopt a rule that significantly weakens the Clean Water Rule, that ignores the science and the law, you can get there will be all kinds of challenges,” said Jon Devine, senior attorney with the Natural Resources Defense Council.

All of these questions leave only one certainty, lawyers say: It will be years before the mass confusion over the scope of federal water protections is any closer to being resolved.

Politico

<http://www.politico.com/story/2017/03/trump-epa-environmental-regulations-235596>

Trump's green assault off to fast start

By Andrew Restuccia 3/2/17, 5:09AM

President Donald Trump is carrying out the most aggressive rollback of federal environmental rules since at least the Reagan administration.

And he's just getting started.

In just 40 days, Trump has made it easier for coal miners to dump their waste into West Virginia streams, ordered the repeal of Clean Water Act protections for vast stretches of wetlands, proposed massive job cuts at the Environmental Protection Agency and prepared to begin revoking the Obama administration's most ambitious climate change regulations.

Trump is also expected to overturn Barack Obama's moratorium on new federal coal leases, and is considering automakers' pleas for relief from a scheduled tightening of vehicle fuel-efficiency standards. Obama's pledge to send billions of dollars to United Nations climate programs is also

likely on the chopping block. And Trump hasn't ruled out withdrawing the United States from the 200-nation Paris climate agreement, a step that could undercut the international effort to confront global warming.

Trump's actions are true to his campaign rhetoric, including his promises to "get rid of" the EPA "in almost every form." They thrill conservative groups like the Heritage Foundation that share his disdain for federal regulations and want Washington to give more control to the states.

But they run afoul of some of Trump's greener post-election head fakes, including a much-publicized meeting in Trump Tower with Al Gore and media speculation that the president's daughter Ivanka might serve as a de-facto climate czar.

Trump's approach alarms environmental advocates and their allies in Congress, who say his early policy moves threaten to pollute the nation's air and water while undermining the future of the planet. They would also hobble agencies like EPA: The spending cuts Trump has ordered would chop nearly 25 percent of that agency's budget, even sharper than the reductions Ronald Reagan oversaw in his first term.

Unlike Reagan, Trump has no Democratic House majority to resist his policies. And decades after Reagan left office, scientists warn that policymakers have little time left to prevent the most catastrophic effects of climate change.

"I would call it the worst environmental disaster of all time if he has the ability to implement the plans which he has outlined," Sen. Ed Markey (D-Mass.) said of Trump.

Even some Republicans are concerned.

"I haven't ever really seen anything quite like this," said Christine Todd Whitman, who served as George W. Bush's first EPA administrator, warning that any effort to weaken enforcement of environmental rules could harm public health. "A lot of that enforcement is protecting people."

The Environmental Defense Fund, which has for decades cultivated relationships with Republican administrations, was so concerned about Trump's agenda that it publicly opposed Scott Pruitt's nomination for EPA administrator, a first for the group. As Oklahoma's attorney general, Pruitt had led legal challenges against a series of major EPA regulations, including a power plant rule that formed the centerpiece of Obama's climate strategy.

"We've worked with every Democrat and every Republican and we've never opposed any Cabinet official, period," EDF President Fred Krupp said in an interview. "That's how far outside the bipartisan environmental tradition the agenda is."

"The very bedrock protections that have led to dramatically cleaner air and a healthy environment through both Democratic and Republican administrations are under attack," he added.

The White House did not respond to a request for comment on this story. But conservatives say it's about time someone started cutting back Washington's tangled environmental bureaucracy.

"In a lot of ways the federal government has bitten off more than they can chew," said Nick Loris, an energy and environment economist at Heritage, which worked closely with Trump officials during the transition. "The Trump administration is undoing a lot of the regulations that the Obama administration put forth that would increase the cost of energy and would really be devoid of any environmental benefit."

At the EPA, one career official said many nervous employees are living by two mantras: "Shelter in place" and "Wait and see." The official said senior career staffers are "being kept out of the loop on major decisions" amid distrust from Trump's political appointees.

"Some folks have zero work," the official said. "Others, who the appointees trust because they are Republican, are getting overtime while their counterparts are dying to get work assignments."

To some long-time environmentalists, Trump's unabashed assault on key planks of Obama's

agenda are especially harrowing.

“Reagan and [George W. Bush] after him made their big moves on Friday afternoon when the media had gone home or cloaked in Frank Luntz cotton-candy phrasing so that only the intended donor beneficiaries would know what was happening,” said Carl Pope, who led the Sierra Club for nearly two decades. “Trump proclaims it in prime time. He's not just trying to change policy. He's trying to eliminate a key phrase in the Constitution: ‘promote the general welfare,’ by changing our public culture.”

At the EPA, some career employees privately draw comparisons between Pruitt and Anne Gorsuch Burford, who drew widespread criticism from environmentalists and Democrats while leading the agency during Reagan's first term.

Burford — the mother of Trump's Supreme Court nominee, Neil Gorsuch — slashed the EPA's budget by 22 percent and once bragged that she cut the agency's book of clean water regulations from 6 inches thick to a half-inch, according to her Washington Post obituary from 2004. Her tenure included being held in contempt by the House after Reagan ordered her not to turn over records about Superfund cleanups.

At the core of Trump's approach to energy and environmental issues is a disdain for federal regulation and bureaucracy, paired with a desire to streamline permit approvals. That was the motive behind one of his earliest executive actions, an order commanding federal agencies to rescind two regulations for every one they enact.

Trump has also signed off on congressional repeals of some Obama-era regulations, including an Interior Department rule meant to protect streams from pollution by mountaintop removal coal mining. And this week, he ordered EPA to begin rewriting the Obama administration's sweeping "Waters of the U.S." rule, a move that green groups say could leave 60 percent of U.S. stream miles and 20 million acres of wetlands unprotected from development or pollution.

Next week, Trump is set to sign an executive order that will start the process of unraveling Obama's most important climate change regulations, aimed at limiting greenhouse gas emissions from coal-burning power plants. Those rules were the centerpiece of Obama's commitment to other nations that the U.S., the world's second-biggest carbon polluter, would do its share to

lessen the causes of global warming.

A person familiar with Trump's order said it is expected to emphasize increasing U.S. energy independence and maximizing domestic energy production on federal lands, while eliminating and streamlining regulations. The order will also overturn the Obama administration's 2015 moratorium on new coal leases on federal lands.

The order won't have instant effect: It could take years for EPA to undo the regulations, and the administration will face fierce legal challenges from environmental groups.

Despite Trump's aggressive early moves, some of his advisers are pushing a more moderate approach on environmental policy — chiefly Ivanka Trump and her husband, Jared Kushner. The couple succeeded in removing language criticizing the 2015 Paris climate deal from the president's upcoming executive order, as The Wall Street Journal first reported.

Trump's advisers have not yet fleshed out a detailed position on whether the U.S. should stay in the Paris agreement, according to a person close to the process. Some advisers have argued the U.S. should pull out altogether, a process that would take years under the agreement's rules. Others favor staking out a middle ground, perhaps by staying in the agreement and rewriting the emissions reduction targets that Obama set.

In some ways, the debate is symbolic: None of the carbon reductions outlined in the Paris deal are legally binding. But climate advocates say U.S. leadership is critical to getting other nations to follow through on their pledges — so a pullout could undermine the agreement.

Trump has been equivocal on the Paris deal, saying during the campaign that he would "cancel" the agreement but later saying he has an "open mind." Secretary of State Rex Tillerson said during his confirmation hearing that the U.S. must keep "its seat at the table" for climate talks, but didn't commit to staying in the agreement.

Trump's critics and supporters alike are looking for clues about his future policy moves in his remaining personnel choices.

For example, sources close to the administration told POLITICO the administration is

considering nominating Kathleen Hartnett White, a former Texas environmental regulator who is a vocal skeptic of mainstream climate science, to lead the White House Council on Environmental Quality, a move that would infuriate green groups and signal a continuation of the president's current approach.

But sources said the White House is also considering less divisive candidates for the job. Those include Marty Hall, who was CEQ's chief of staff during the George W. Bush administration and is now an executive at the Ohio-based electric utility FirstEnergy.

In the meantime, though, defenders of the EPA are urging Trump not to ignore the agency's core missions, which are to protect human health and the environment.

"If EPA doesn't provide these protections, no one else will," said William Reilly, the EPA administrator under President George H.W. Bush. "No one else in the government has that mandate. It's EPA or nothing."

Alex Guillén contributed to this story.

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Breitbart

<http://www.breitbart.com/big-government/2017/03/02/farmers-applaud-trump-repealing-epa-water-rule/>

Farmers Applaud Trump for Repealing EPA's WOTUS Rule

By Joel B Pollak 3/2/17

Farmers are applauding President Donald Trump's executive order Tuesday that reverses the Environmental Protection Agency's "Waters of the United States" (WOTUS) rule, which gave the agency virtually limitless authority to regulate water on private land.

Introduced under President Barack Obama, the WOTUS expanded the EPA's interpretation of

the Clean Water Act to include, as Texas Attorney General Ken Paxton said, “almost any piece of land that gets wet and puddles.”

The Clean Water Act was intended to apply to “navigable” waters, but WOTUS interpreted that extremely broadly, so that it included waters with a “significant nexus” with navigable waters — in other words, taking in water that might eventually flow into navigable waterways.

The result was that the EPA could theoretically regulate everyday farming operations.

The Los Angeles Times notes that “farmers knew the cavalry was coming to their rescue on election night” because they expected Trump to repeal WOTUS. And on Tuesday, just hours before his first address to a special joint session of Congress, he delivered on those expectations.

The Times adds: “Trump had been uncharacteristically specific during his campaign about reversing the rules, and calls to ‘Repeal WOTUS’ were as common a rallying cry among growers as ‘Build the Wall’ was to his followers in rural manufacturing areas.

Newly-confirmed EPA director Scott Pruitt said in a statement: “The President’s action preserves a federal role in protecting water, but it also restores the states’ important role in the regulation of water.”

The State of California has been increasing its role in regulating water on private land, expanding its authority to include groundwater — a response prompted by fears of overuse during the recent extreme drought and the ongoing restriction of federal water allocations due to efforts to preserve the endangered Delta smelt.

With regard to federal regulation of water, however, farmers in California share their counterparts’ relief — and join those who feel satisfied that the new president is keeping his promises, regardless of “resistance” from Democrats and the media.

Huffington Post

http://www.huffingtonpost.com/entry/former-epa-heads-blast-pruitt_us_58b728e1e4b019d36d1030be

Former EPA Head Says White House Budget An ‘Attack’ On Agency and Science

By Chris D’Angelo 3/1/17, 9:07PM

WASHINGTON — With oil ally Scott Pruitt now at the helm of the Environmental Protection Agency and a White House looking to axe one-quarter of the agency’s funding, two former EPA administrators felt no need to equivocate.

“This is actually going to be devastating for the agency’s ability to protect public health,” Gina

McCarthy, who served as EPA chief under former President Barack Obama, told MSNBC.

In a joint interview Wednesday with MSNBC's Greta van Susteren, McCarthy and Christine Todd Whitman, the former New Jersey governor who later served as EPA chief under President George W. Bush, warned that the proposed EPA cuts go far deeper than reeling in burdensome regulations.

McCarthy called the Trump administration's budget proposal "an attack on the agency" that would reduce staffing levels to where they were 40 years ago.

"I understood that this administration was likely not supportive of climate initiatives, but this is going to the heart of our air and water protections. This is going to the heart of how EPA protects the public health of American families," she said.

As The Huffington Post previously reported, the White House is looking to cut the EPA's budget by 25 percent, as well as eliminate 1 in 5 agency employees. And The Washington Post reports that the EPA's scientific research arm, the Office of Research and Development, could see up to a 42 percent cut. Last year, the agency's budget totaled nearly \$8.2 billion.

"We're talking about 42 percent of our scientists potentially losing their jobs this year," McCarthy added. "I mean, this is not just disagreeing with the science and wanting to deny it. This is telling half of the scientists that they're no longer welcome in the premiere environmental science agency in the world, the Environmental Protection Agency."

Asked if she thought Pruitt would do the right thing for EPA, Whitman said she was "skeptical."

"I hope fervently that the kind of message that the administrator gave the other day to the people who work at the agency, the career staff, where it was a pretty balanced approach, that's going to be more the tone we're going to see — more respect for the agency and its mission, what it does," she said.

"The agency is about protecting human health and the environment. And we don't want to lose that in an effort to ensure that the regulations in place are the ones the administration wants."

What Whitman and McCarthy had to say Wednesday came as little surprise. Both have previously spoken out against what is unfolding at EPA.

"[Pruitt] obviously doesn't care much for the agency or any of the regulations it has promulgated," Whitman said of the former Oklahoma attorney general in December. "He doesn't believe in climate change; he wants to roll back the Clean Power Plan."

In a statement earlier Wednesday to The Washington Post, McCarthy blasted the White House's budget proposal, saying it "ignores" not only "the need to invest in science and to implement the law," but also "the lessons of history that led to EPA's creation 46 years ago."

A gutting of the EPA will almost certainly get the endorsement of the agency's top boss; Pruitt

sued the EPA 13 times as Oklahoma's attorney general.

Over the weekend, Pruitt said those calling for the abolishment of the EPA were "justified" in their beliefs. He credited the agency's actions under the Obama administration for such outrage.

"I think people across this country look at the EPA much as they look at the IRS," Pruitt said during his appearance at the Conservative Political Action Conference in Maryland. "There are going to be some big steps taken to address some of those regulations."

Kevin McGonagle

Office of Media Relations Intern

U.S. Environmental Protection Agency

Telephone: (202)-564-4524

mcgonagle.kevin@epa.gov